



## Statutory Planning Committee

Notice is hereby given that meeting 7539 of the Statutory Planning Committee will be held on:

**Tuesday, 9 February 2016**  
**9:00 am**

**Level 3, Room 3.23, 140 William Street Perth**

This meeting is not open to members of the public



**Kerrine Blenkinsop**  
**WAPC Secretary**

**Committee  
Secretary:**

Irene Obales  
6551 9400  
[committees@planning.wa.gov.au](mailto:committees@planning.wa.gov.au)

**Attendance by  
Department of  
Planning officers:**

Only Assistant Director Generals and committee support staff to be present unless attendance of others is specifically requested or approved by the Chair or Director General. Assistant Director Generals and Commission support staff will be responsible for providing feedback on items to staff.

# Statutory Planning Committee

Tuesday, 9 February 2016, 9:00 am

ITEM	ORDER OF BUSINESS	
1.	Declaration of opening	
2.	Apologies – Nil.	
3.	Members on leave of absence and applications for leave of absence	
4.	Disclosure of interests	
5.	Declaration of due consideration	
6.	Announcements by the Chairperson without discussion	
7.	<b>MINUTES</b>	
7.1	Confirmation of minutes – Meeting No. 7538 on 19 January 2016	
8.	<b>DEPUTATIONS AND PRESENTATIONS</b>	
9.	<b>STATUTORY ITEMS FOR DECISION</b>	<b>Officer Attending</b>
9.1	Consideration of Whitford Activity Centre Structure Plan	Kym Petani <i>Planning Director, Metro North West</i>
9.2	Southern River Precinct 3F Local Structure Plan - Submitted for Approval	Lindsay Baxter <i>Planning Director, Metropolitan South East</i>
9.3	Shire of Meekatharra - Local Planning Strategy - Certification Prior To Advertising	David Saunders <i>Assistant Director General, Regional Planning</i>
9.4	Endorsement of Lot 803 North Yunderup Road, North Yunderup Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Region</i>
9.5	Development Proposed Tourist Chalets - Lot 291 Hardwick Road, Millendon	Kym Petani <i>A/Planning Director, Metro North East</i>
9.6	Endorsement of Lakelands North Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Region</i>
9.7	Request for Reconsideration of a Refusal to an Application for Subdivision to Create Two (2) Lots for Commercial Purposes - Lot 1001 Ellersdale Avenue, Warwick	Kym Petani <i>Planning Director, Perth and Peel Planning</i>
9.8	Request for Reconsideration of a Refusal to an Application for the Subdivision of Lot 98 Gull Road Serpentine	Lindsay Baxter <i>Planning Director, Metropolitan South East</i>
9.9	Request for Reconsideration of a Refusal to an Application for the Survey-strata subdivision of Lot 124 Hannaby Street, Dianella to Create Two Residential Lots	Mathew Selby <i>Planning Director, Metropolitan Planning Central</i>
9.10	Shire of Murray - 2014 Murray River Country Estate Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Region</i>

<b>9.11</b>	Subdivision to create two residential lots in R15R20 area - Lot 3 (No. 4) Smith Street Claremont	Mathew Selby <i>Planning Director, Metropolitan Planning Central</i>
<b>9.12</b>	Subdivision to Create Two Residential Lots in R20 Area - Lot 259 (No. 4) Edison Way Dianella	Mathew Selby <i>Planning Director, Metropolitan Planning Central</i>
<b>9.13</b>	Subdivision to Create Two Rural Living Lots – Lot 133 Rodgers Court, Roleystone	Lindsay Baxter <i>Planning Director, Metropolitan South East</i>
<b>10.</b>	<b>POLICY ITEMS FOR DISCUSSION / DECISION</b>	
<b>10.1</b>	Nil.	
<b>11.</b>	<b>CONFIDENTIAL ITEMS</b>	<b>Officer Attending</b>
<b>11.1</b>	Shire of Murray – Local Planning Scheme No. 4 – Amendment no. 290 – For Final Approval	Cameron Bulstrode <i>Planning Director, Peel Region</i>
<b>11.2</b>	City of Armadale - Town Planning Scheme No. 4, Amendment No. 77 - For Final Decision	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
<b>11.3</b>	City of Karratha Draft Local Planning Strategy – Certification Prior to Advertising	David Saunders <i>Assistant Director General, Regional Planning</i> Philip Woodward <i>Planning Director, Northern Regions</i>
<b>11.4</b>	Shire of Exmouth Town Planning Scheme No. 3 – Amendment 31	David Saunders <i>Assistant Director General, Regional Planning</i>
<b>11.5</b>	Shire of Nannup Local Planning Scheme No. 3 Amendment No. 16 - For Final Determination	David Saunders <i>Assistant Director General, Regional Planning</i>
<b>11.6</b>	Shire of Wandering – Local Planning Scheme No. 3 Amendment No. 4 – For Final Approval	David Saunders <i>Assistant Director General, Regional Planning</i>
<b>11.7</b>	City of Armadale Town Planning Scheme No. 4 - Amendment 73 for Final Approval	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
<b>11.8</b>	City of Joondalup – District Planning Scheme No. 2 – Amendment No.65 – For Final Decision	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
<b>11.9</b>	City of Joondalup – District Planning Scheme No.2 – Amendment No.68 – For Final Decision	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>

11.10	Town of East Fremantle - Town Planning Scheme No. 3 - Amendment No. 10	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>		
11.11	Town of Port Hedland - Town Planning Scheme Amendment No. 71 - For Final Approval	David Saunders <i>Assistant Director General, Regional Planning</i>		
11.12	Town of Victoria Park – Town Planning Scheme No. 1, Amendment No. 67 – For Final Decision	Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>		
CORPORATE MATTERS				
12.	Stakeholder engagement and site visits			
13.	Urgent or other business			
14.	ITEMS FOR CONSIDERATION AT A FUTURE MEETING			
	Item No	Report	Request	Due date
	7515.14.1 (20 Jan 2015)	Detailed Area Plan Report	Establishment report to be presented to the Committee.	TBA
	7517.14.1 (24 Feb 2015)	Codes to Support Increased Density Workshop	To be discussed at a future meeting of the Committee.	David MacLennan February 2016
	7517.14.2 (24 Feb 2015)	Sub-Regional Planning Frameworks	A presentation to be made to the Committee at a future meeting.	Nicole Lucas-Smith 23 February 2016
	7527.9.1 (28 Jul 2015)	Proposed "Lifestyle Village" (Park Home Park) Within the Jandakot Groundwater Protection Policy Area	Report to be presented to the Committee on 'retirement villages' and the DOP's policy setting in regard to land use and the policy/ merit discussion.  Members agreed that they were specifically looking at park home lifestyle villages which fall under the caravan park legislation, not the retirement villages legislation.	David MacLennan/ Ben Harvey Mid 2016
	7531.14.1 (22 Sep 2015)	SAT Applications	The current exercise of delegated authority is to be reconsidered at the next Committee's Policy meeting.	8 March 2016

<b>7533.9.1 (27 Oct 2015)</b>	Request for Reconsideration of a Refusal to an Application for the Subdivision of Lot 98 Gull Road, Serpentine into One Lot of 17.86 Hectares and One Lot of 12.84 Hectares	Deferred.	On Agenda
<b>7533.13.3 (27 Oct 2015)</b>	Report Templates	Members discussed the report templates and agreed that they need to be revised.	David MacLennan March 2016
<b>7534.11.11 (10 Nov 2015)</b>	Current State Administrative Tribunal Applications	<p>Members requested information on:</p> <ol style="list-style-type: none"> <li>1. Current applications before SAT and requests for reconsideration.</li> <li>2. Decisions that have been overturned by SAT.</li> <li>3. Why the decision was overturned.</li> <li>4. Who made the original decision (officer, committee etc).</li> <li>5. Matters that have been referred back for reconsideration by SAT – need to identify if a pattern is emerging.</li> </ol> <p>Members requested a quarterly report be provided.</p>	12 April 2016 (will commence a quarterly reporting cycle)
<b>7536.11.1 (8 Dec 2015)</b>	Review of Development Control Policies and Planning Bulletins	Mr Glickman suggested a hierarchy of planning policies and documents. Ms Burrows recommended that a consolidated set of categorised guidelines, policies and manuals in line with the hierarchy be provided for consideration at the next policy meeting.	David MacLennan 8 March 2016

	<b>7538.9.1 (19 Jan 2016)</b>	Consideration of North Two Rocks Local Structure Plan No. 91	Deferred.	TBA
<b>15.</b>	Meeting Closure – next meeting Tuesday 23 February 2016 at 9:00 am			

# Information for SPC Members

## 2016 Meeting Dates - Tuesday 9am

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• 9 February</li> <li>• 23 February</li> <li>• 8 March*</li> <li>• 22 March</li> <li>• 12 April</li> <li>• 26 April*</li> <li>• 10 May</li> <li>• 24 May</li> <li>• 14 June*</li> <li>• 28 June</li> <li>• 12 July</li> </ul> | <ul style="list-style-type: none"> <li>• 26 July*</li> <li>• 9 August</li> <li>• 23 August</li> <li>• 13 September*</li> <li>• 27 September</li> <li>• 11 October</li> <li>• 25 October*</li> <li>• 8 November</li> <li>• 22 November</li> <li>• 13 December*</li> </ul> |
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\* Policy Meetings

Member	Representation in accordance with <i>Planning and Development Act 2005</i>	Term of office ends
Mr Eric LUMSDEN	Chairman, WAPC Schedule 2 clause 4(2)(a)	04/11/2016
Ms Gail McGOWAN	Director General, Department of Planning Schedule 2 clause 4(2)(b)	Ex officio
VACANT	Nominee of the Regional Minister Schedule 2 clause 4(3)	
Ms Elizabeth TAYLOR	Community representative Schedule 2 clause 4(2)(d)	31/12/2016
Mr Ian HOLLOWAY	Professions representative Schedule 2 clause 4(2)(e)	31/12/2016
Mayor Russell AUBREY	Local government representative Schedule 2 clause 4(2)(f)	23/09/2016
Ms Megan BARTLE	WAPC appointee Schedule 2 clause 4(2)(g)	04/12/2016
Ms Sue BURROWS	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2016
Mr Ray GLICKMAN	WAPC appointee Schedule 2 clause 4(2)(g)	23/09/2016
Mr Stephen HILLER	WAPC appointee Schedule 2 clause 4(2)(g)	23/09/2016

### Quorum: 5

In accordance with the Western Australian Planning Commission (WAPC) Standing Orders 2009, 3.7 - Quorum for meetings:

(2) A quorum for a meeting of a committee is at least 50% of the number of offices (whether vacant or not) of members of the committee.

### Role:

The Statutory Planning Committee is one of four committees set up by the WAPC on 1 March 1995 upon proclamation of the *Planning Legislation Amendment Act (No. 2) 1994*.

Schedule 2(4)(4) of the *Planning and Development Act 2005*



The Statutory Planning Committee is the WAPC's regulatory decision-making body and performs such of the functions of the WAPC under the *Planning and Development Act 2005* and Part II of the *Strata Titles Act 1985* as are delegated to the Statutory Planning Committee under section 16 and such other functions as are delegated to it under that section. These functions include approval of the subdivision of land, approval of leases and licenses, approval of strata schemes, advice to the Minister for Planning on local planning schemes and scheme amendments, and the determination of certain development applications under the Metropolitan Region Scheme.

### **Delegated Authority (Del 2009/05)**

#### *Planning and Development Act 2005* Section 16(1)

- 2.1 Power to determine applications for approval to commence and carry out development lodged with or referred to the WAPC pursuant to the provisions of a region scheme.
- 2.2 Power to approve detailed plans requiring the subsequent approval of the WAPC as a condition of development approval pursuant to the provisions of a region scheme and power to confirm that conditions imposed by the WAPC on a development approval pursuant to the provisions of a region scheme have been complied with.
- 2.3 Power to determine whether or not proposals and the ongoing implementation of a region scheme comply with conditions (if any) applied pursuant to sections 48F and 48J of the *Environmental Protection Act 1986*.
- 2.4 Power to determine whether or not applications to commence and carry out development are of State or regional importance, or in the public interest, pursuant to any resolution of the WAPC made under a region scheme requiring such determination.
- 2.5 Power to request the Minister for Planning to approve the WAPC disregarding the advice of the Swan River Trust in whole or in part in relation to the approval of development of land within the Riverbank or Development Control Area as defined under the *Swan and Canning Rivers Management Act 2006* where the determining authority is the WAPC.
- 2.6 All functions of the WAPC as set out in -
  - (i) Sections 14(a), 14(c), 34, 97, 98, 100, 104, 105, 106, 107, 109, 110, 111, 134, 135, 136, 138, 139, 140, 142, 143, 144, 145, 147, 151, 153, 154, 157, 169, 185, 214, 215, 216 of the Act;
  - (ii) *Planning and Development (Local Planning Schemes) Regulations 2015*;
  - (iii) Regulations 21, 22, 24 and 27 of the *Planning and Development Regulations 2009*;
  - (iv) *Strata Titles Act 1985* or the provisions of a strata or survey-strata scheme;
  - (v) *Strata Titles General Regulations 1996*;
  - (vi) Section 52 and section 85 of the *Land Administration Act 1997*;
  - (vii) Section 40 of the *Liquor Control Act 1988*;
  - (viii) *Perry Lakes Redevelopment Act 2005*.
- 2.7 Power to determine requests for variations to plans of subdivision where WAPC approval is required pursuant to the provisions of an approved local planning scheme.
- 2.8 Power to provide comment on and grant approval to plans known generally as outline development plans, structure plans and similar plans, and to planning policies and similar documents or amendments thereto, requiring the approval or endorsement of the WAPC pursuant to the provisions of a local planning scheme.
- 2.9 Power to provide comments or advice on behalf of the WAPC to a local government or a redevelopment authority where a provision of a local planning scheme or a redevelopment scheme requires comments from the WAPC.



- 2.10 Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.
- 2.11 Power to make recommendations to the Minister for Planning in relation to requests from local governments to expend monies paid by subdividing land owners in lieu of setting aside free of cost to the Crown, areas of land for public open space, where such recommendations are in accordance with WAPC policy.
- 2.12 Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to section 38(1) of the *Environmental Protection Act 1986* and to refer such proposal to the Environmental Protection Authority.
- 2.13 Power to waive or clear conditions affixed as conditions of approval.
- 2.14 Power to endorse diagrams and plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the *Land Administration Act 1997*.
- 2.15 Power to advise the Minister for Planning on any appeal or matter arising therefrom pursuant to Part 14 of the Act.
- 2.16 Power to defend and otherwise deal with applications for review lodged with the Administrative Tribunal and to appeal, defend, respond and otherwise deal with any matter that may be appealed to the Supreme Court on a question of law.
- 2.17 Power to defend, respond, appeal and otherwise deal with legal proceedings.
- 2.18 Power to prepare and approve, subject to the prior approval of the Minister for Planning, policies relating to planning matters and/or the functions of the WAPC, save and except for State Planning Policies under Part 3 of the Act.
- 2.19 Power to determine matters under Regional Interim Development Orders.
- 2.20 Such powers and functions of the WAPC as set out in-
  - (i) Part 5 of the Act;
  - (ii) *Planning and Development (Local Planning Schemes) Regulations 2015*as are necessary for the preparation, promulgation and the making of recommendations in relation to the Improvement Scheme authorised by Improvement Plan No. 37 for the Browse Liquefied Natural Gas Precinct.

**This meeting is not open to members of the public.**

## Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Part 6 of the Standing Orders 2009, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” means a relevant person’s interest in a matter where it is reasonable to expect that the matter if dealt with by the board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the person.

An “**indirect pecuniary interest**” means a relevant person’s interest in a matter where a financial relationship exists between that person and another person who requires a board or Committee decision in relation to the matter.

A “**proximity interest**” means a relevant person’s interest in a matter if the matter concerns -

- (i) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (ii) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (iii) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

An “**impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an association or an association with any decision making process relating to a matter for discussion before the board or a Committee.

Members disclosing any pecuniary or proximity interests for an item can not participate in discussion or the decision making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

## Disclosure of representations

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members and relevant employees.

## Statutory Planning Committee

Minutes  
of ordinary meeting 7538  
held on Tuesday 19 January 2016

### Attendance

#### Members

Mr Eric Lumsden  
Ms Megan Bartle  
Ms Sue Burrows  
Mr Stephen Hiller  
Mr Ian Holloway  
Ms Gail McGowan  
Ms Elizabeth Taylor

WAPC Chairman (Presiding Member)  
WAPC appointee  
WAPC appointee  
WAPC appointee  
Professions representative  
Director General, Department of Planning  
Community representative

#### Officers

Ms Kylie Beach  
Mrs Kerrine Blenkinsop  
Ms Vanessa Crispe  
Mr Stephen Ferguson  
Mr David MacLennan  
Ms Lee O'Donohue  
Ms Irene Obales  
Ms Kym Petani  
Mr Mat Selby  
Ms Kylie Woods

#### Department of Planning

Senior Planning Officer, Schemes and Amendments  
Manager Commission Business  
Executive Assistant WAPC  
Senior Solicitor  
Assistant Director General, Policy and Priority Initiatives  
Manager Schemes and Amendments  
Committee Support Officer  
Planning Director, Metro Planning North West  
Planning Director, Metro Planning Central  
Senior Legal Officer

#### Presenters

Mr Sean L'Estrange MLA  
Ms Nicola Milsom  
Ms Kirsten Piccinini  
Mayor Keri Shannon  
Mr Jason Lyon  
Mr Ian Bignell  
Ms Jane Bennett  
Mr Gin Wah Ang  
Mr Mike Allen

Member for Churchlands <sup>(Item 8.1)</sup>  
Research Officer <sup>(Item 8.1)</sup>  
<sup>(Item 8.2)</sup>  
Town of Cambridge <sup>(Item 8.3)</sup>  
Acting Chief Executive Officer, Town of Cambridge <sup>(Item 8.3)</sup>  
Director Development, Town of Cambridge <sup>(Item 8.3)</sup>  
CLE Town Planning and Design <sup>(Item 8.2)</sup>  
Two Rocks Investments <sup>(Item 8.2)</sup>  
Mike Allen Planning <sup>(Item 8.2)</sup>

#### Committee Support

Mrs Melanie Dawson

Commission Support Officer

### 7538.1 Declaration of Opening

The Presiding Member declared the meeting open at 9:00 am, acknowledged the traditional owners and custodians of the land on which the meeting is

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taking place and welcomed Members.

### 7538.2 Apologies

Mayor Russell Aubrey	Local government representative
Mr Ray Glickman	WAPC appointee

### 7538.3 Members on Leave of Absence and Applications for Leave of Absence

Mr Lumsden, Ms McGowan and Ms Bartle all applied for a leave of absence for 8 March 2016.

**Resolved**

***Moved by Ms Taylor, seconded Mr Holloway***

*That the approval for a leave of absence be granted to Mr Lumsden, Ms McGowan and Ms Taylor for the Statutory Planning Committee meeting to be held on 8 March 2016.*

***The motion was put and carried.***

### 7538.4 Disclosure of Interests

Nil.

### 7538.5 Declaration of Due Consideration

All members indicated that they had received and considered the agenda items before the meeting.

### 7538.6 Announcements by the Chairperson of the Board and communication from the WAPC

The Chair discussed the recent bushfires and expressed his concern that there is a perception that just because you have a Bushfire Management Plan that a subdivision would be approved. The Chair indicated that for an assessment of extreme or high fire risk he does not consider it acceptable to assume approval to subdivide and will be writing to the Department to indicate his position.

### 7538.7 Confirmation of Minutes

**7538.7.1 Amendment to the Minutes of the Statutory Planning**

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### Committee meeting held on Tuesday 24 November 2015

A motion was moved to amend the minutes from SPC Meeting No. 7535 held on 24 November 2015, to include the reasons for the Committee's decision.

Delete the following wording from item 7535.9.3 Subdivision of One Lot to Create Two Residential Lots in a Dual Coded Area (R10/20) – Lot 236 Rochdale Road, Mount Claremont:

The members deliberated the proposed subdivision of one lot to create two residential lots at Lot 236 Rochdale Road, Mount Claremont and an alternative motion was put by the members which resulted in an approval with the appropriate conditions as provided by the Department of Planning.

Replace with:

The members deliberated the proposed subdivision of one lot to create two residential lots at Lot 236 Rochdale Road, Mount Claremont.

As Town Planning Scheme No.2 was gazetted in 1985 the development provisions contained within clause 5.3.1 are not reflective of strategic planning principles. The application should be assessed within the context of the site's characteristics.

The subject site is a corner lot, with frontage to two constructed roads, and it was considered that support for the application would not set an undesirable pattern of subdivision or be replicated on a large scale throughout the locality.

Delete the following wording from item 7535.9.4 Subdivision to Create Two Residential Lots in Dual Coded Area (R10/20) – Lot 206 Mayfair Street, Mount Claremont:

The members deliberated the proposed subdivision to create two residential lots in dual coded area (R10/20) - Lot 206 Mayfair Street, Mount Claremont and an alternative motion was put by the members which resulted in an approval with the appropriate conditions as provided by the Department of Planning.

Replace with:

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The members deliberated the proposed subdivision to create two residential lots in dual coded area (R10/20) - Lot 206 Mayfair Street, Mount Claremont.

As Town Planning Scheme No.2 was gazetted in 1985 the development provisions contained within clause 5.3.1 are not reflective of strategic planning principles. The application should be assessed within the context of the site's characteristics.

The subject site is a corner lot, with frontage to two constructed roads, and it was considered that support for the application would not set an undesirable pattern of subdivision or be replicated on a large scale throughout the locality.

### Resolved

***Moved by Ms Bartle seconded by Ms Taylor***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday 24 November 2015, be amended as outlined above.*

***The motion was put and carried.***

7538.7.2

**Minutes of the Statutory Planning Committee meeting held on Tuesday 15 December 2015**

### Resolved

***Moved by Ms McGowan, seconded by Mr Hiller***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday 15 December 2015, be confirmed as a true and correct record of the proceedings.*

***The motion was put and carried.***

## 7538.8 Deputations and Presentations

7538.8.1

**Town of Cambridge – Local Planning Scheme No. 1 Amendment 31 (Item 11.2)**

Presenter Mr Sean L'Estrange MLA, Member for Churchlands

Ms Nicola Milsom, Research Officer

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Mr L'Estrange and Ms Milsom made a presentation to the Committee against the Amendment in its current form.

Mr L'Estrange discussed and presented a written paper on a number of key planning issues related to Amendment 31.

A copy has been placed on file.

### 7538.8.2

#### **Town of Cambridge – Local Planning Scheme No. 1 Amendment 31 (Item 11.2)**

Presenter Ms Kirsten Piccinini

Ms Piccinini made a presentation to the Committee against the Amendment and answered questions from members.

Ms Piccinini discussed the potential heritage value of City Beach and Floreat as garden suburbs.

A copy has been placed on file.

### 7538.8.3

#### **Town of Cambridge – Local Planning Scheme No. 1 Amendment 31 (Item 11.2)**

Presenter Mayor Keri Shannon, Town of Cambridge  
Mr Jason Lyon, Acting Chief Executive Officer,  
Town of Cambridge  
Mr Ian Bignell, Director Development, Town of  
Cambridge

Mayor Shannon made a presentation to the Committee.

Mayor Shannon discussed the Town's Strategic Community Plan 2013-2023 and the priority areas it focuses on.

### 7538.8.4

#### **Consideration of North Two Rocks Local Structure Plan No. 91 (Item 9.1)**

Presenter Ms Jane Bennett, CLE Town Planning and  
Design  
Mr Gin Wah Ang, Two Rocks Investments  
Mr Mike Allen, Mike Allen Planning

Ms Bennett, Mr Gin Wah Ang and Mr Allen made a presentation to the Committee on the changes to the Plan since the presentation on 24 November 2015 and answered questions from members.

Ms Bennet proposed deleting modifications 18; 19; 24(b),(c),(g)(ii); and part of 25a.



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Ms Bennett also proposed two additional provisions be entered into the implementation section:

- The FMP to include: Identification of areas of public open space abutting the Special Use Zone which form part of the 10% public open space contribution;
- In the event that the monitoring and review process identifies that the Special Use (Coastal) Zone, or a portion of the zone is currently impacted by coastal processes and is no longer suitable to accommodate the approved use or development, then the affected portion shall be transferred to the Crown and vested as foreshore reserve at the conclusion of the development approval period.

A copy has been placed on file.

### 7538.9 Statutory Items for Decision

#### 7538.9.1

#### **Consideration of North Two Rocks Local Structure Plan No. 91**

File SPN/0497

Agenda Part C

Reporting Officer Senior Planning Officer, Metro Planning North West

#### **Officer's Recommendations:**

That the Statutory Planning Committee resolves to:

1. require that the North Two Rocks Local Structure Plan No. 91, dated June 2014, be modified in accordance with the schedule of modifications appended as Attachment 7 before final approval is given; and
2. following the completion of the modifications, upon approval of the structure plan, the approval shall be valid for a period of 10 years.

The members discussed State Planning Policy 2.6 State Coastal Planning Policy and its implementation in this case.

The members discussed possible appropriate legal mechanisms that could be implemented.

#### ***Motion to defer***

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### Resolved

***Moved by Ms McGowan, seconded by Ms Taylor***

*That the item relating to Consideration of North Two Rocks Local Structure Plan No. 91 as detailed in the report dated 27 October 2015 be deferred for further information from the Department of Planning.*

***The motion was put and carried.***

#### **7538.10 Policy Items for Discussion/Decision**

Nil.

#### **7538.11 Confidential Items**

##### **7538.11.1 City of Melville – Local Planning Strategy and Local Planning Scheme No. 6 – for Final Approval – Additional Information**

File DP/11/01800; TPS/0606

Agenda Part B

Reporting Officer Planning Manager – Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

##### **7538.11.2 Town of Cambridge – Local Planning Scheme No. 1 Amendment 31 – for Final Approval**

File TPS/1624

Agenda Part B

Reporting Officer Planning Director - Metropolitan Central

**THIS ITEM IS CONFIDENTIAL**

#### **7538.12 Stakeholder Engagement & Site Visits**

Nil.

#### **7538.13 Urgent or Other Business**

##### **7538.13.1 Independent Planning Reviewer**

Emma Thunder has been appointed to the position of Independent Planning Reviewer.

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### 7538.14 Items for Consideration at a Future Meeting

Item No	Report	Request	Report Required
<b>7515.14.1</b> <b>(20 Jan 2015)</b>	Detailed Area Plan Report	Establishment report to be presented to the Committee.	TBA
<b>7517.14.1</b> <b>(24 Feb 2015)</b>	Codes to Support Increased Density Workshop	To be discussed at a future meeting of the Committee.	David MacLennan February 2016
<b>7517.14.2</b> <b>(24 Feb 2015)</b>	Sub-Regional Planning Frameworks	A presentation to be made to the Committee at a future meeting.	Nicole Lucas-Smith 9 February 2016
<b>7527.9.1</b> <b>(28 Jul 2015)</b>	Proposed "Lifestyle Village" (Park Home Park) Within the Jandakot Groundwater Protection Policy Area	<p>Report to be presented to the Committee on 'retirement villages' and the DOP's policy setting in regard to land use and the policy/ merit discussion.</p> <p>Members agreed that they were specifically looking at park home lifestyle villages which fall under the caravan park legislation, not the retirement villages legislation.</p>	David MacLennan/ Ben Harvey Mid 2016
<b>7531.14.1</b> <b>(22 Sep 2015)</b>	SAT Applications	The current exercise of delegated authority is to be reconsidered at the next Committee's Policy meeting.	8 March 2016
<b>7533.9.1</b> <b>(27 Oct 2015)</b>	Request for Reconsideration of a Refusal to an Application for the Subdivision of Lot 98 Gull Road, Serpentine into One Lot of 17.86 Hectares and One Lot of 12.84 Hectares	Deferred.	Scheduled for 9 February 2016
<b>7533.13.3</b> <b>(27 Oct 2015)</b>	Report Templates	Members discussed the report templates and agreed that they need to be revised.	David MacLennan March 2016

## Statutory Planning Committee

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of ordinary meeting 7538  
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<b>7534.8.5 (10 Nov 2015)</b>	Deputation by City of Vincent	City of Vincent to make a presentation to the Committee on new commercial and infill applications similar to the presentation given to the WALGA inner suburbs presentation made at the City of Vincent.	The person responsible for the presentation is no longer at the City of Vincent and the presentation is unavailable.
<b>7534.11.11 (10 Nov 2015)</b>	Current State Administrative Tribunal Applications	<p>Members requested information on:</p> <ol style="list-style-type: none"> <li>1. Current applications before SAT and requests for reconsideration.</li> <li>2. Decisions that have been overturned by SAT.</li> <li>3. Why the decision was overturned.</li> <li>4. Who made the original decision (officer, committee etc).</li> <li>5. Matters that have been referred back for reconsideration by SAT – need to identify if a pattern is emerging.</li> </ol> <p>Members requested a quarterly report be provided.</p>	12 April 2016 (will commence a quarterly reporting cycle)
<b>7536.11.1 (8 Dec 2015)</b>	Review of Development Control Policies and Planning Bulletins	Mr Glickman suggested a hierarchy of planning policies and documents. Ms Burrows recommended that a consolidated set of categorised guidelines, policies and manuals in line with the hierarchy be provided for consideration at the next policy meeting.	David MacLennan 8 March 2016
<b>7538.9.1 (19 Jan 2016)</b>	Consideration of North Two Rocks Local Structure Plan No. 91	Deferred.	TBA

### 7538.15 Meeting Closure

The next ordinary meeting is scheduled for 9:00 am on Tuesday 9 February 2016.

## Statutory Planning Committee

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There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 11:30 am.

**PRESIDING MEMBER** \_\_\_\_\_

**DATE** \_\_\_\_\_

UNCONFIRMED

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<i>F</i>	<i>MINOR LOCAL OR REGIONAL PLANNING SCHEMES / LOCAL OR REGIONAL PLANNING SCHEME AMENDMENTS</i>
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*E MINOR LOCAL OR REGIONAL PLANNING SCHEMES / LOCAL PLANNING SCHEME AMENDMENTS*

- 11.1 Shire of Murray – Local Planning Scheme No. 4 Amendment No. 290 – for Final Approval
- 11.2 City of Armadale – Town Planning Scheme No. 4 Amendment No. 77 – for Final Decision
- 11.3 City of Karratha – Draft Local Planning Strategy – Certification Prior to Advertising
- 11.4 Shire of Exmouth – Town Planning Scheme No. 3 Amendment No. 31
- 11.5 Shire of Nannup – Local Planning Scheme No. 3 Amendment No. 16 – for Final Determination
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*B LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS*

- 11.7 City of Armadale – Town Planning Scheme No. 4 – Amendment 73 for Final Approval
- 11.8 City of Joondalup – District Planning Scheme No. 2 Amendment No. 65 – for Final Decision
- 11.9 City of Joondalup – District Planning Scheme No.2 Amendment No. 68 – for Final Decision
- 11.10 Town of East Fremantle – Town Planning Scheme No. 3 Amendment No. 10
- 11.11 Town of Port Hedland – Town Planning Scheme Amendment No. 71 – for Final Approval
- 11.12 Town of Victoria Park – Town Planning Scheme No. 1 Amendment No. 67 – for Final Decision



## ITEM NO: 9.1

### Consideration of Whitford Activity Centre Structure Plan

#### WAPC OR COMMITTEE:

#### Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Metropolitan Planning North West
AUTHORISING OFFICER:	Planning Director, Metropolitan Planning North West
AGENDA PART:	C
FILE NO:	SPN/0464
DATE:	11 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Require modifications before final approval 2. Following completion of the modifications, the approval shall be valid for a period of 10 years.
ATTACHMENT(S):	1. Locality and MRS Plan 2. Whitford Activity Centre Structure Plan (Part 1) 3. Consultation Summary and City's assessment 4. Schedule of modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Joondalup
LOCAL SCHEME ZONING:	Commercial, Business, Civic and Cultural, Residential, Private Clubs/Recreation, Local Reserve - Parks and Recreation
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	Perth Metropolitan North West
RECEIPT DATE:	1 October 2015
PROCESS DAYS:	98 days
APPLICATION TYPE:	Activity Centre Structure Plan
CADASTRAL REFERENCE:	Lots 501 and 6 Whitfords Avenue; Lots 4 to 6; 226 to 243; 272, 280 to 283, 503, 9089 Banks Avenue; Lot 14284 Endeavour Road; Lot 181 St Mark's Drive; Lots 11, 12 and 3 Solander Road, Lots 7 to 10 Monkhouse Way and Lot 244 and 245 Green Road, Hillarys.

#### RECOMMENDATION:

*That the Statutory Planning Committee resolves to:*

- 1. require that the proposed Whitford Activity Centre Structure Plan, dated May 2015, be modified in accordance with the schedule of modifications appended as Attachment 4; and***

2. ***further advise the proponent that upon receipt of structure plan documents that have been amended in accordance with the attached schedule of modifications, the Western Australian Planning Commission shall endorse the documents which shall be valid for a period of 10 years.***

## **SUMMARY**

The City of Joondalup (the City) has forwarded the proposed Whitford Activity Centre Structure Plan (structure plan) to the Western Australian Planning Commission (WAPC) for its consideration and endorsement. The proposed structure plan has been prepared to guide the future redevelopment of the Whitford Activity Centre, enabling the transformation of the centre from a suburban shopping centre to a vibrant mixed-use secondary centre.

The structure plan is submitted for the Statutory Planning Committee's consideration of issues relating to land use permissibility, retail floor space, land use diversity, staging and variations to the Residential Design Codes (R-Codes). Specifically, given the nature of activity centre structure plans and the need to ensure certain land use and development outcomes are achieved, which provisions should have statutory weight with the force and effect of the scheme.

The proposed structure plan, subject to a number of recommended modifications, is considered to be generally consistent with the legislative and policy framework, and provides a suitable framework to facilitate the development of the centre. It is therefore recommended that the structure plan, subject to modifications, be approved.

## **BACKGROUND:**

The WAPC received the Whitford Activity Centre Structure Plan for its consideration on 1 October 2015.

A previous structure plan, originally submitted in 2013, was refused by the City on 19 November 2013 on the basis that:

- the associated Retail Sustainability Assessment did not adequately justify the extent of retail floor space of 95,000 m<sup>2</sup> NLA proposed, which was considered that it would negatively impact on other activity centres in the area;
- the accompanying Transport report did not adequately address the transport issues arising from the scale of development, with an anticipated adverse impact on the flow and volume of traffic on the surrounding road network;
- the structure plan did not achieve diversity targets for stages of development and residential development as required by SPP 4.2;
- the structure plan did not adequately demonstrate the timing and implementation of various developments to achieve the objectives of SPP 4.2, including the requirements, responsibilities and timing for infrastructure upgrades to support the redevelopment of the activity centre.

The applicant subsequently requested a review of the City's decision through the State Administrative Tribunal (SAT). The SAT considered the matter and commenced a process of mediation involving the applicant, the City, the Department of Planning and two residents who applied to intervene. Following mediation in 2014, a new structure plan was prepared and subsequently considered at a meeting of the Joondalup City Council on 15 September 2015 where Council resolved that the structure plan was satisfactory subject to modifications.

An associated amendment (Amendment No. 68) to the City of Joondalup District Planning Scheme No.2, to zone the land within the structure plan area to 'Centre' and remove the 'R20' density code where relevant was considered by Council in October 2012. This amendment which was held in abeyance pending resolution of issues relating to the structure plan, is subject of a separate report on this agenda.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Part 5 Local Planning Schemes; and Schedule 2, Part 4 (respectively)

### **Strategic Plan**

Objectives:	Planning
Performance Outcomes:	Effective Delivery of Integrated Plans
Strategic Imperatives:	Develop integrated infrastructure and land use plans for the State

### **Policy**

Number and / or Name:	State Planning Policy 4.2- Activity Centres for Perth and Peel (SPP 4.2)/Model Centre Framework Structure Plan Framework
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## **DETAILS:**

The proposed structure plan has been prepared to establish a planning framework to guide the planning and redevelopment of the Whitfords activity centre (**Attachment 1: Locality and MRS Plan**). It aims to create a vibrant mixed use and transit oriented development with a diverse mix of land uses ranging from retail and commercial, cultural and civic land uses to residential development.

The objectives of proposed structure plan are to facilitate the transition of the structure plan area to a more contemporary urban form, with more land use diversity and density. It will also enable pedestrian connections between the various precincts; provide for improved vehicular movement through upgraded and new internal connections to the regional road network; accommodate the expansion of retail services and improve the visual amenity and public realm interface of the area.

The subject land is characterised by small and large scale commercial developments, two day care centres, a high school, residential land uses and public open space and

includes the Westfield Whitford City Shopping Centre, the St Mark's Anglican Community School site to the west and residential properties along Banks Avenue. The structure plan covers an area of 42.82 hectares and is expected to accommodate an additional population of 1,478 people, an estimated 739 total dwellings, 2,448 additional jobs and a total of 77,500 m<sup>2</sup> retail NLA.

The proposed structure plan area consists of four districts or precincts, each with its own character statement, development objectives, standards and land use permissibility. The districts include:

- the Retail district, which will provide a mixed of retail, office, leisure, entertainment, recreation and community facilities;
- the Endeavour district, which is intended to become a diverse urban environment with a focus on street based activity and a community plaza;
- the Banks district, which will be characterised by a transition in activity and built form from the retail core to the adjacent residential development; and
- the Education and Civic district to facilitate campus style buildings and includes the existing St Mark's school (**Attachment 2: Whitford Activity Centre Structure Plan**).

The structure plan provides a framework to facilitate the following:

- 77,500 m<sup>2</sup> retail NLA of which a maximum of 75,000 m<sup>2</sup> is permitted in the Retail district.
- A requirement for shop retail development to be provided in the Endeavour district when the shop retail floor space in the Retail district exceeds 55,000 m<sup>2</sup> NLA, at a rate of 10% of the additional shop retail floor space in the Retail district.
- A requirement for upgrades of the surrounding road network, including the Whitfords Avenue/Marmion Avenue and Marmion Avenue/Banks Avenue intersections.
- A maximum building height of 25 metres in the Endeavour, Education and Civic districts, 20 metres in the Retail district and 13.5 metres in the Banks district.
- A requirement for residential dwellings to be provided in the Endeavour district when the shop retail floor space in the Retail district exceeds 55,000 m<sup>2</sup> NLA, at a rate of one dwelling for each 500 m<sup>2</sup> of additional shop retail floor space in the Retail district.
- A residential density of R80 is allocated for the Education and Civic, Banks and Retail districts.

An assessment of the proposed structure plan will be discussed in the Officer's Comment section of this report.

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The new *Planning and Development (Local Planning Schemes) Regulations 2015* (regulations) which came into effect on 19 October 2015 allows structure plans to

amend or introduce new scheme provisions or zones. However, in order for these provisions to have statutory effect they must be incorporated into a local planning scheme.

The inclusion of land use permissibilities within activity centre structure plans may reduce the ability to achieve land use diversity targets which is a key outcome required by *State Planning Policy 4.2: Activity Centres for Perth and Peel* (SPP 4.2) and a fundamental principle to employment growth in the outer sub-regions. Further it may complicate the future streamlined normalisation of structure plans into schemes.

## **CONSULTATION:**

The proposed structure plan was advertised for public comment by the City for a period of 42 days ending on 9 July 2015. During the consultation period, a total of 51 submissions were received, which included 30 objections, 14 submissions in support, two comments and five submissions from service authorities or agencies. A summary of the submissions incorporating the City's response is contained in **Attachment 3 - Consultation Summary and City's assessment**.

Objections primarily relate to building heights and density, increased traffic and noise and the impact of parking on the amenity of the area.

In response to the submissions received, the applicant has made a number of changes to the structure plan. These include realigning the boundary of the Education and Civic district to encompass the St Mark's school entirely (previously a portion was included in the Endeavour district); additional detail to clarify the upgrades required for the road between the Education and Civic district and the Endeavour district; and minor text amendments to ensure consistency throughout the document. The modifications are not considered to materially change the intent of the structure plan.

## **OFFICER'S COMMENTS:**

The proposed structure plan is in three parts, Part One – Statutory Section, Part Two – Non-statutory (Explanatory) section; and accompanying technical documents including a Retail Sustainability Assessment, Servicing & Infrastructure Report and Transport Report. It is noted that modifications to align the structure plan with the new regulations will be required.

## **Planning Framework**

### *City of Joondalup District Planning Scheme No. 2 and Local Commercial Strategy*

SPP 4.2 requires activity centre structure plans to be prepared for strategic metropolitan, secondary, district and specialised centres. Whitford is identified as a secondary centre under SPP 4.2. Amendment 68 proposes to rezone the land with the Whitfords Activity Centre to the Centre zone which will provide the statutory head of power for the preparation of an activity centre structure plan as required under

SPP 4.2. Under DPS 2 land use permissibilities are not defined for the Centre zone, instead deferring this matter to structure plans.

The City's Local Commercial Strategy forms the framework for decision making for commercial centres with respect to the development of new structure plans, amendments to existing structure plans and future rezoning and development applications. The Strategy anticipates 75,000 m<sup>2</sup> NLA retail floor space in the centre, which is marginally less than proposed by the structure plan.

#### *Metropolitan Region Scheme*

The structure plan area is zoned Urban under the Metropolitan Region Scheme (MRS) which is considered to be an appropriate zone for the development and redevelopment of an activity centre.

#### *State Planning Policy 4.2 – Activity Centres for Perth and Peel*

SPP 4.2 specifies broad planning requirements for the planning and development of new activity centres and the redevelopment of existing centres. In accordance with the policy, secondary centres share similar characteristics with strategic metropolitan centres (i.e. multipurpose centres with a diversity of uses), but serve smaller catchments and offer a more limited range of services, facilities and employment opportunities.

The proposed structure plan has been prepared in accordance with the requirements of SPP 4.2. and has been assessed against the requirements of the policy.

#### *Structure Plan Framework*

The new Regulations require structure plans to be provided to the WAPC in a manner and form approved by the WAPC. In this regard, the WAPC recently released its Structure Plan Framework which constitutes the manner and form of structure plans pursuant to the Regulations. The Framework requires that activity centre structure plans guide the types of land uses and the overall development (including the built form) that is intended to occur within the centre, which can detail land use and infrastructure requirements as well as environmental assets, residential density, built form, infrastructure and access arrangements. In this regard, the proposed structure plan is considered to comply with the requirements of the Framework.

#### *Planning and Development (Local Planning Schemes) Regulations 2015*

The 2015 Planning Regulations outline the process for the preparation of activity centre structure plans and the information to be included in these structure plans. This includes the planning context for the structure plan area; any major land uses, zoning or reserves proposed by the plan; the coordination of transport and other infrastructure; standards to be applied for buildings and vehicle access requirements.

The proposed structure plan was prepared, lodged, advertised and subsequently submitted to the WAPC for its consideration, prior to the recent gazettal of the 2015



Planning Regulations. In recognition of this, the applicant has been advised that although the structure plan will need to be updated to bring it in line with the intent of the Regulations, changes required in this regard will be limited and will only be required where these are critical to implement the intent of the planning reform. This mainly relates to ensuring provisions that require statutory weight are included within the scheme.

### *Draft North West Sub-Regional Planning Framework*

The draft North-West Sub-regional Planning Framework aims to promote employment opportunities and increase the number of people who live and work within the sub-region, with a focus on employment within activity centres. The Framework anticipates that the centre will accommodate a growth in job numbers from 2,869 jobs in 2011, to 3,343 and 3,681 jobs by 2031 and 2050 respectively.

It is estimated that the redevelopment of Whitford as per the proposed structure plan will create 2,448 additional jobs in the centre, improving the employment self-sufficiency in the North West Sub-region consistent with the strategic objectives of the draft Sub-regional Framework.

## **Land Use**

Diversity of land uses promotes a more equitable distribution of services, facilities and employment and an overall reduction in travel demand. To facilitate this, SPP 4.2 requires that activity centres include sufficient diversity, mix and intensity of land uses, which should include uses such as retail, commercial, health, education, entertainment, community facilities and higher-density housing.

SPP 4.2 states that secondary centres of between 50,000 m<sup>2</sup> and 100,000 m<sup>2</sup> retail floor space should aim to provide a 40% mix of land use. This is measured by the percentage of floor space other than retail in a centre and does not include residential use, but includes office, civic, business, health, community, entertainment cultural uses and showrooms. In this regard, the structure plan is proposed to have a diversity mix of land uses of 50% by 2026 (currently 47%), consisting of the following:

<b>Mix of uses</b>	<b>Floor space (existing)</b>	<b>Floor space (2026)</b>
Other Retail	0.85ha (9%)	1.15ha (7%)
Office/Business	0.78ha (8%)	2.25ha (14%)
Health/Welfare/ Community Services	1.62ha (17%)	2.35ha (15%)
Entertainment/Recreation/Culture	0.95ha (10%)	1.6ha (10%)
Other (manufacturing, processing, storage...)	0.24ha (3%)	0.45ha (3%)
Retail	4.99ha (52%)	7.75ha (50%)
<b>Total</b>	<b>9.43ha (100%)</b>	<b>15.55ha (100%)</b>
<b>Total Diversity ('mix of uses')</b>	<b>4.44ha (47%)</b>	<b>7.8ha (50%)</b>

It is anticipated that the centre will include 739 residential dwellings, which although technically excluded from the calculation of land use mix in the SPP, will contribute significantly to the diversity of land use in the centre. The structure plan meets the diversity performance target in the SPP, and is therefore considered to have adequate land use diversity.



The structure plan includes land use permissibility tables for each of the precincts. The new Regulations clearly provide that structure plans, while requiring due regard, do not have the force and effect of a scheme. Local planning schemes are the appropriate planning mechanism to govern land use permissibility, and any changes to land use permissibility in the scheme require a planning scheme amendment and final approval by the Minister for Planning.

The risk of including all land use permissibility in structure plans without linking these with land uses with statutory weight in the scheme, is that this could lead to the incremental expansion of permissible land uses through numerous amendments to structure plans which do not require determination by the Minister. This is an ad-hoc approach to land use control and significantly complicates the planning framework.

While it is acknowledged that the proposed structure plan was subject of extensive mediation through the SAT, given the need to achieve specific outcomes for activity centre structure plans such as land use mix and employment generation, the inclusion of land use permissibilities in the structure plan is not supported. As the structure plan is being considered concurrently with an associated scheme amendment, an opportunity exists to address this issue. The structure plan can, however, provide more clarity in terms of the preference of specific discretionary ('D') uses within each of the precincts.

Based on the above, it is recommended that land use permissibilities be included in the Scheme. In acknowledgment of the mediation process, it is recommended that the land use permissibility as proposed be supported without any changes, but that the land use permissibility be included by appropriate provisions in the scheme. It is noted that these include discretionary 'D' uses, which still affords some flexibility subject to the determination by the City.

To facilitate this, a modification is recommended that the land use tables in the structure plan be removed.

### **Shop Retail Development**

SPP 4.2 requires that the amount of shop retail development in activity centres be informed by a retail sustainability assessment, to ensure that the centres hierarchy is maintained and that major development in centres does not detrimentally impact on other centres. A retail sustainability assessment was undertaken which indicates that the proposed expansion of the activity centre will largely be supported by the centre's main trade catchment and to a lesser extent beyond the catchment area, with limited impact on other centres.

The retail floorspace within the structure plan was considered at length through the SAT mediation process, resulting in a proposed retail NLA of 77 500 m<sup>2</sup>. The retail floor space proposed is close to that estimated by the City's Local Commercial Strategy of 75,000 m<sup>2</sup> and Department of Planning assessment of 70,000-75,000 m<sup>2</sup>. The expansion is considered unlikely to have a significant impact on other activity centres, and the proposed maximum of 77,500 m<sup>2</sup> NLA is significantly lower than the 95,000 m<sup>2</sup> NLA previously proposed, which was not supported by either the City or the Department.

To facilitate this and ensure statutory certainty in relation to the maximum shop retail floor space in the centre, it is recommended that Amendment 68 be modified to include the insertion of a clause requiring that the retail floorspace of the centre be in accordance with an Activity Centre Structure Plan approved by the WAPC pursuant to SPP 4.2.

### **Staging and retail expansion requirements**

The proposed structure plan anticipates market demand in support of the expansion of the activity centre to 75,000 m<sup>2</sup> NLA by 2017 and 77,500 m<sup>2</sup> NLA by around 2020. In order to facilitate this, and ensure shop retail uses and residential development takes place in other precincts in a balanced way, it includes provisions to link the expansion of floor space for shop retail uses within the Retail district, with the provision of residential development and shop/retail uses in the Endeavour District.

Triggers for this include a requirement for residential dwellings to be provided when the shop retail floor space in the Retail district exceeds 55,000 m<sup>2</sup> NLA, at a rate of one dwelling for each 500 m<sup>2</sup> and for shop retail development to be provided in the Endeavour district when the shop retail floor space in the Retail district exceeds 55,000 m<sup>2</sup> NLA, at a rate of 10% of the additional shop retail floor space in the Retail district.

These triggers linked with major retail expansion were agreed through mediation and will ensure that there is a mix of land uses developed within the centre in accordance with SPP 4.2.

In order to ensure statutory certainty in relation to these requirements, it is recommended that provisions relating to the retail expansion and development triggers be deleted from the structure plan and included as a modification to Amendment 68.

### **Residential development**

The proposed structure plan anticipates an additional population of 1478 people in the centre to be accommodated in an estimated 739 total dwellings. It further proposes a R80 residential code to the Banks, Retail and Education and Civic Districts, with the R-AC0(b) code applying to the Endeavour district. The R-AC0(b) in the R-codes do not include site requirements, but refer development requirements to the respective structure plan or local development plan. In this regard, the structure plan applies the design elements of the R-codes to the Endeavour district, unless varied by the development standards in the structure plan.

Building development standards have been included in the structure plan that vary the R-codes, but these are considered acceptable variations, as the R-codes do not adequately provide for the built form needs in activity centres, with the development needs in centres unique to the standard application of the R-codes. This is acknowledged by the Planning Regulations, which require that activity centre structure plans set out information in relation to the standards to be applied for buildings in activity centres.

## **Transport and Access**

In accordance with SPP 4.2, activity centres should be planned in line with transit-oriented development principles, to make it convenient for residents, employees and visitors to travel by public transport instead by private car, and to make centres accessible for walking and cycling. The proposed structure plan includes provisions to facilitate a number of road network improvements, public transport facilities and public realm improvements.

Access arrangements include the upgrading of the road network adjoining the Retail, Endeavour and Banks districts to ensure the efficient movement of vehicles. Specifically, the Marmion Avenue/Whitfords Avenue and the Whitfords Avenue/Dampier Avenue intersections will require upgrading to ensure they operate within acceptable levels. These suggested upgrades are considered appropriate and are supported.

Additionally, to promote public transport, the structure plan provides potential for a new bus station on the south side of Whitfords Avenue to consolidate bus stops and provide better access between the shopping centre and public transport; bus lanes on Whitfords Avenue across the Marmion Avenue intersection; improved bus stops on Endeavour Road and bus re-routing to better serve the intensification of the main street.

Measures to support walking and cycling include improved footpaths; improvements to the underpass on Whitfords Avenue; provision of end of trip facilities and cycling lanes on Banks Avenue and Endeavour Road. It is considered that these measures will improve public transport patronage and reduce private vehicle trips and are therefore supported.

In terms of parking, the transport assessment indicates that a total of 8,178 parking spaces should be provided based on a rate of 4.5 spaces per 100 m<sup>2</sup> NLA for retail and 2 spaces per 100 m<sup>2</sup> for office space, which amounts to 4,559 spaces. Based on this, the structure plan proposes car parking provision per district (not land use as in the scheme), provided at a rate of 4.5 bays per 100 m<sup>2</sup> NLA in the Retail district, a rate of 2.7 bays per 100 m<sup>2</sup> NLA in the Endeavour district, a rate of 2.7 bays per 100 m<sup>2</sup> NLA in the Banks district, with car parking in the Education and Civic district to be provided in accordance with the scheme. This generally complies with SPP 4.2 which requires 4-5 bays per 100 m<sup>2</sup> for shops and two bays per 100 m<sup>2</sup> for showrooms and offices, and is supported.

The structure plan includes provisions to facilitate transport and access improvements and the inclusion of these in the structure plan is appropriate and in accordance with the Framework.

## **Urban design and built form**

SPP 4.2. requires activity centres to incorporate a network of streets and public spaces as principal elements. This should include small, walkable blocks that improve accessibility within centres, buildings that address streets and public spaces to promote vitality and serve as community meeting places. In order to facilitate this, activity centre structure plans should comply with the Model Centre Framework

included in the policy, which sets out the principles of design related to the development of centres in order to achieve compact, pedestrian-friendly, mixed-use centres.

The structure plan proposes three key streets in the centre, namely Whitfords Avenue, Endeavour Road and Banks Avenue, with the following urban design elements:

- Whitfords Avenue, between Marmion and Dampier Avenues, which will ultimately have an improved pedestrian environment, with development adjacent to the future bus embayments to provide a strong visual and pedestrian connection to this future public transport node.
- Endeavour Road will become a vibrant and active Main Street environment with multi-storey buildings to both sides of the street. This will include apartment and commercial buildings from 2 to 7 storeys, with activated streets of retail and commercial development at ground level.
- Banks Avenue will provide a transition from the shopping centre to the residential areas to the south, with a street environment with mixed uses at ground level to both sides of the street and buildings of 3 storeys which will provide an appropriate transition in scale and activity.

The structure plan proposes a number of landmark sites and community focal points to enhance the legibility and community focus at the centre. The community focal points are:

- the 'Endeavour Community Plaza' on Endeavour Road, which will become the primary community focal point at the western end of the centre. The structure plan proposes that this square will be surrounded by buildings with a diverse range of activities including street based retail, community facilities, restaurants, bars and cafes and high density residential, and will be framed by 3 storey buildings, with alfresco dining and community gathering areas.
- the 'Marmion Promenade' within the eastern portion of the Retail district, which will be an open air promenade characterised by high end street treatment, and will provide an enhanced sense of arrival at the centre.

The proposed landmark sites are buildings at the intersection of Whitford Avenue and Endeavour Road, which will signify arrival at the Main street of the Centre; a retail building fronting Marmion Promenade which will enhance the address of the centre from Marmion Avenue; and landscape elements at the intersection of Marmion Avenue and Whitfords Avenue to signify the approach to the centre at a vehicle scale.

The structure plan includes a 'street interface plan', which indicates the graded level of building activation proposed in the centre, based on projected pedestrian footfall. This includes three levels of activation, i.e. 'active', 'passive' and 'attractive'. Street interface elements in the 'active' areas will include fenestration, weather protection, signage and lighting at a pedestrian scale; whilst in the 'passive' street environment, landscaped front setbacks and windows overlooking the street will be encouraged. 'Attractive' street interface areas are those areas where little pedestrian footfall is anticipated and which could include landscape and building facades and screens that

have an artistic or sculptured character (**Attachment 2: Whitford Activity Centre Structure Plan**).

In order to guide the urban design and built form in the centre, the proposed structure plan include general development requirements and standards for the whole structure plan area, including land use and development intensity, height and setbacks, pedestrian access, vehicle parking and access, landmark sites and community focal points, street and public realm interface and landscape and private open space. In addition to the general requirements, the structure plan also includes specific requirements for the various districts within the centre.

The provisions in the structure plan primarily relate to matters of detailed design and residential development within the structure plan area and are supported. The inclusion of these in the structure plan will give it some flexibility in the assessment of development proposals.

### **Clause 4.5 Scheme provisions**

Clause 4.5. of the Joondalup scheme enables the City to approve development which does not comply with the standards or requirements of the scheme, except where the R-codes apply. In this regard, the proposed structure plan includes provisions to link the land use class permissibility, net lettable area of shop retail development, retail expansion requirements and residential densities with clause 4.5. of the scheme.

Given that the modifications recommended will include the provisions that require maximum statutory weight within the scheme and those that require more flexibility in the structure plan, it is recommended that the provision in relation to clause 4.5 be deleted. A modification is recommended to facilitate this.

### **Schedule of modifications**

A number of modifications to the proposed structure plan are recommended in order to address issues identified through the assessment process, and these are reflected in the attached schedule of modifications (**Attachment 4: Schedule of modifications**).

### **Conclusion**

The proposed Whitford Activity Centre Structure Plan has been prepared to guide the future redevelopment of the Whitfords activity centre. The implementation of the structure plan will drive the transformation of the centre from a suburban shopping centre to a secondary activity centre with a vibrant mix of uses, with strong residential and retail components, along with improved entertainment, civic and office functions.

The proposed structure plan, subject to a number of recommended modifications as detailed within the Schedule of Modifications, is considered to be generally consistent with the legislative and policy framework, and is considered to be a suitable framework to facilitate the re-development of the centre. It is therefore recommended that the structure plan be approved subject to the attached modifications.

## ITEM NO: 9.2

### Southern River Precinct 3F Local Structure Plan – Submitted for Approval

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Manager Metropolitan South East
AUTHORISING OFFICER:	Director Metropolitan South East
AGENDA PART:	C
FILE NO:	SPN/0507/1
DATE:	9 February 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	Require the local government to:- 1.modify the Local Structure Plan in the manner specified by the Commission; and 2.resubmit the modified Local Structure Plan to the Commission for approval
ATTACHMENT(S):	A. Schedule of Modifications B. Modified LSP 1. Proposed LSP 2. Southern River Precinct 3 Structure Plan 3. LSP as Advertised 4. Additional contextual detail 5. Non-contentious issues assessment
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Gosnells
LOCAL SCHEME ZONING:	Business Development
LGA RECOMMENDATION(S):	Approve
REGION DESCRIPTOR:	Metropolitan South East
RECEIPT DATE:	30/01/2015
PROCESS DAYS:	375
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lots 15, 16, 100, 101, 21, 1768 Southern River Road and Lots 17, 1766 and 1767 Matison Street, Southern River

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. require the local government to:***



- (a) ***Modify the Local Structure Plan (LSP) in the manner specified by the Commission;***
- (i) ***The LSP text being modified in accordance with the attached Schedule of Modifications (Attachment A).***
- (ii) ***The LSP map being modified as depicted on Attachment B.***
- (iii) ***The Transport Assessment accompanying the LSP being updated to:***
- ***reflect the required LSP design, including additional changes to the road network depicted on Attachment B;***
  - ***include trip generation rates and assumptions made for 'Light Industry';***
  - ***specify what type of intersection treatment will be used for all roads that intersect with Southern River Road; and***
  - ***include both 2021 and 2031 analysis for the Southern River Road intersections and that they specify whether the figures are for the AM or the PM peak (identifying whichever the 'worst case scenario' is).***
- (b) ***Resubmit the modified LSP to the Commission for approval.***

#### **SUMMARY:**

Modifications are required to the Southern River Precinct 3F Local Structure Plan (LSP) prior to approval by the Western Australian Planning Commission (Commission). The principle modification relates to open space, road and parking interface issues along Matison Street. The City advises that it opposes the proposed changes.

Accordingly, the Precinct 3F LSP has been submitted for the SPC's consideration as there is a difference of opinion between officers of the Department of Planning (DoP) and the City of Gosnells (the City) in relation to the preferred interface between the structure plan area and the existing rural-residential (Kennel Zone) on Matison Street.

#### **BACKGROUND:**

The City adopted the proposed Southern River Precinct 3F Local Structure Plan (LSP) on 16 December 2014, subject to modifications. The majority of modifications requested by the City have been duly undertaken, and the LSP forwarded to the Commission for consideration of final approval pursuant to Clause 22 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (**Attachment 1 - Proposed LSP**).

Following preliminary assessment, a set of further modifications were sent to the City in accordance with the consultation requirements under the City's Town Planning



Scheme No. 6 (TPS 6) at the time. The principle modification relates to open space, road and parking interface issues along Matison Street. The City advises that it opposes the proposed changes.

**LEGISLATION / STRATEGIC PLAN / POLICY:**

## Legislation

*Planning and Development (Local Planning Schemes) Regulations 2015*

Section:

Schedule 2 Part 4

## Strategic Plan

Objectives: Economic Development

Performance Outcomes: Sufficient urban, commercial and industrial land supply opportunities.

Strategic Imperatives: Provide for economic development, business and employment opportunities.

## Policy

Number and / or Name: SPP 4.1 - State Industrial Buffer Policy

### DETAILS:

The LSP relates to nine properties, totalling 44.6 hectares bound by Southern River Road, Lander Street, Matison Street and Furley Road, referred to as Southern River Precinct 3F. Of the nine lots affected by the proposed LSP, four are in the ownership of the City (Lots 1767, 1768, 21 and 100), one is owned by Western Power (Lot 101) and four are in multiple private ownership.

The subject land contains a mix of existing land uses, including a church, residential housing and Western Power substation. A significant portion of the site is covered by remnant vegetation, with a former liquid waste facility having been located on Lot 1768 Southern River Road.

Properties to the north-east of the site remain largely undeveloped and are subject to a separate structure planning process (Southern River Precinct 3E) which proposes various residential, commercial and public open space uses. Land to the south-east forms part of the established Southern River Kennel zone and General Rural properties, containing residential dwellings. Land to the south-west comprises Bush Forever Site 413 and is reserved for Parks and Recreation, whilst land to the north-west of Southern River Road forms part of the broader Bletchley Park residential estate.

## STRATEGIC AND STATUTORY CONTEXT

The LSP is generally consistent with Urban zone in the Metropolitan Region Scheme (MRS); considers the objectives of the *Economic and Employment Lands Strategy: Non-heavy industrial Perth metropolitan and Peel regions* (EELS; 2012); and addresses the land use designations identified under the Southern River/Forrestdale/Brookdale/Wungong District Structure Plan (DSP).

The site is subject to the *Southern River Precinct 3 Structure Plan* (SP), which is a non-statutory strategic land use plan adopted by the City on 12 May 2009. The SP

was considered by the Commission on 15 September 2009 and noted as being suitable for use as a guiding document to assess future MRS amendments and sub-precinct ODPs. (**Attachment 2 - Southern River Precinct 3 Structure Plan**). The proposed LSP seeks to further extend the Mixed Business Zone along the frontage of Southern River Road and to allocate additional areas of public open space along Furley Street, in association with a Resource Enhancement Wetland (REW) and buffer affecting Lots 16 and Lot 17.

Amendment 110 to TPS 6 (initiated by the City in March 2011) is also relevant to the LSP as it seeks to introduce Special Control Area provisions and a Developer Contribution Scheme (DCS) for the sharing of common infrastructure works and public open space provision within Precinct 3. Significantly, the draft DCS excludes costs for acquiring land reserved for Parks and Recreation or identified as Bush Forever, and does not provide for the cost of acquiring land required for wetland or bushland conservation that lie outside of a Parks and Recreation reserve or Bush Forever Protection area, including any required buffers.

Amendment 110 was granted consent to advertise by the Commission subject to several modifications, which were duly undertaken by the City during 2012. The Commission's consideration of the Amendment is currently on hold pending assessment of additional supporting information supplied by the City.

For ease of reading, further contextual details are provided in **Attachment 4**.

#### **GOVERNMENT AND CORPORATE IMPLICATIONS:**

There are no policy or financial implications for the Commission or the DoP.

#### **CONSULTATION:**

The LSP was advertised for a period of 21 days from 24 January 2013 to 15 February 2013 (**Attachment 3 - LSP as advertised**). The City received 41 submissions during the advertising period; ten from government agencies and 31 from landowners. Of the submissions received from landowners, 18 objected to the proposal, three provided comment and 10 lodged no objection. The issues raised in the public submissions are discussed further in this report.

In response to comments received during the advertising period the landowner group responsible for preparation of the LSP lodged an amended plan for consideration of final approval. In considering the amended plan, the City resolved to require further modifications to address specific issues raised during the submission period, which have been incorporated into the LSP submitted for final approval. These modifications were not considered by the City to be so significant as to warrant re-consultation.

#### **OFFICER'S COMMENTS:**

Modifications to the LPS content previously recommended by DoP during the advertising period have been undertaken; however, additional issues require incorporation into the LSP text prior to final approval being granted (refer

**Attachment A**), which the City has not agreed to. The areas of disagreement between the City and DoP relate to:

1. the allocation of public open space and the need for a developer contribution scheme;
2. the interface between the LSP area and the existing kennel zone; and
3. outstanding matters relating to the transport assessment,

which have been addressed in detail below. Further issues identified and assessed but not under contention are detailed in **Attachment 5**.

#### 1. Public Open Space/Developer Contribution Scheme

The LSP nominates two distinct areas of public open space:

- (i) Approximately 1.97 hectares within Lots 16 and 17 incorporating an REW, a 30 metre wetland buffer and vegetation protection. The primary purpose of this public open space is for conservation.
- (ii) Approximately 4.09 hectares within Lots 21, 1768 and 1767 in the ownership of the City of Gosnells. This public open space is to accommodate a 50 metre nominal buffer from the adjoining mapped Conservation Category Wetland (CCW), drainage and recreational uses, including picnic areas with shade shelter, tables and park benches.

The public open space areas will support retention of the REW, associated wetland buffers and the vegetation considered to be in excellent to very good condition including Black Cockatoo foraging habitat and Quenda habitat. The Department of Parks and Wildlife (previously Department of Environment and Conservation) supports retention of the REW and its buffer as public open space to be managed for conservation purposes.

Of the 10.51 hectares of remnant vegetation currently located within the site, 1.97 hectares is proposed to be retained. As Black Cockatoos are a protected species under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, and given the extent of clearing required, the proposal was referred to the Federal Government Department of Sustainability, Environment, Water and Population and Communities which determined that further assessment or approval under the EPBC Act was not required.

A submission was received from the landowners of Lot 16 Southern River Road raising objection to the nomination of a substantial portion of their property as public open space to allow for the protection of a REW and remnant vegetation. It included concerns regarding a lack of recognition of the need for a suitable mechanism to facilitate the equitable distribution of costs associated with the provision of public open space given that the retention of vegetation within this area also formed the basis upon which to seek support for removal of 8.54 hectares of Black Cockatoo foraging habitat across the broader Precinct 3F area under the EPBC Act.

The equitable provision of public open space within Precinct 3F should be addressed through finalisation of Amendment 110 to TPS 6 which will set out the infrastructure items for inclusion. Such analysis would need to have regard to the extent to which such public open space will benefit other landholders either through environmental offsets, amenity/recreational requirements and/or drainage. The Local Water Management Strategy (LWMS) identifies a portion of Lot 16 as having a drainage function. It is this use that should trigger a form of compensation from adjoining landholders. The extent to which respective landowners should be compensated will also need to recognise restrictions that may otherwise have applied to the development of the affected land, including wetland constraints, which may have triggered the requirement for ceding free of cost through the subdivision process.

It is appropriate that the LSP text be modified to acknowledge the need to consider the balancing of public open space costs within Precinct 3F as part of the developer contribution scheme. This is referenced in the recommended modifications to the LSP text, outlined in Point 13 in the Schedule of Modifications (**Attachment A**).

## 2. Interface with Kennel Zone

Submissions have been received from landowners and residents within the adjoining kennel zone raising concerns regarding the potential for industrial businesses to unsettle dogs and cats and disrupt kennel boarding operations. The kennel operations would also have the potential to impact upon surrounding land uses, primarily due to noise.

The Southern River Kennel Zone is shown for retention under the DSP and is subject to a 500 metre noise sensitive use buffer which is shown on the LSP.

Appropriate zoning and land use restrictions have been applied under the LSP in recognition of constraints associated with established kennel operations. Additional modifications have also been recommended by the City to limit impacts upon the kennel zone by extending a 25 metre wide public open space buffer along part of Matison Street and restricting direct vehicular access. Whilst the City's intent to limit impacts and associated land use conflict along the Matison Street interface is supported, the creation of a buffer by the use of a strip of public open space is not the most efficient solution. Discussions with the City and officers of the Department of Planning identified two further options to address the interface issues.

### *Matison Street Interface Options*

- Option 1 proposes a reciprocal rights of access with two right angle parking areas and a five metre landscaping strip. This option would create a 42 metre separation from Kennel Zone properties when combined with the existing 20 metre wide Matison Street road reserve and allow for an 11.4 metre wide vegetation strip (6.4 metre Matison Street verge + 5 metre landscaping strip). Crossovers onto Matison Street would be limited to encourage traffic flow onto internal access roads. Option 1 also proposes to retain the second access road to Matison Street as this will enable better traffic flow within the site. Option 1 is depicted in **Attachment B**.

- Option 2 proposes that a 20 metre wide road be constructed adjacent to Matison Street. This option would create a 40 metre buffer from the lots on Matison Street and would retain the 11.4 metre wide verge as per Option 1. Option 2 also envisages that only one access from Matison Street to the site is created. The intent is to discourage access to/from the development via Matison Street.

The overarching Southern River Precinct 3 Structure Plan recommends that Matison Street be upgraded to an urban standard as part of the subdivision process. If Option 2 was supported it would be difficult to justify to landowners that they are to not only construct a 20 metre wide road but are also required to upgrade a road that would provide limited access to the local structure plan area.

While DoP notes the City's aim of minimising the impact to residents on Matison Street from traffic and development in Precinct 3F, there is still the need to provide good access and circulation in the locality. The result of restricting access to Matison Street would be that the majority of traffic would need to flow to/from Southern River Road which is already subject to increased volumes from nearby residential development. The City's proposal for only one access to Matison Street would also impact on the internal flow of traffic in the LSP site. The orientation of buildings facing towards Matison Street, rather than backing on, will also facilitate additional separation from industrial activities through front building setbacks that recognise the active components of industrial development are more likely to be located towards the rear of properties.

For these reasons Option 1 is the preferred option for the interface and connectivity with Matison Street.

### 3. Transport Assessment

The Transport Assessment (February 2012) prepared by Shawmac and the City was reviewed during the advertising period with various updates recommended by DoP's Infrastructure and Land Use Coordination branch.

A revised Transport Assessment (undated) has been submitted in conjunction with the latest iteration of the LSP. As a result of further review the following additional changes are recommended:

The Transport Assessment does not reflect the latest LSP design and should be updated to address the following points:

- Trip generation rates are explained for the Mixed Business zone, but not for the Light Industry zone. Any revision to the Transport Assessment should explain what assumptions were made for these figures;
- The Transport Assessment does not specify what type of intersection treatment will be used, (e.g. full movement, left-in, left-out). It is requested that future revisions of the Transport Assessment provide this information for all roads that intersect with Southern River Road;
- Intersection analysis has been provided for some, but not all key intersections and information is missing from others. It is recommended that any revision of the Transport Assessment include both 2021 and 2031 analysis for the Southern

River Road intersections and that they specify whether the figures are for the AM or the PM peak (identifying whichever the 'worst case scenario' is).

Prior to granting final approval it is appropriate that the various modifications to the Transport Assessment as identified above be implemented and incorporate any additional changes to the road network outlined within the preceding report.

## **CONCLUSION**

The Southern River Precinct 3F Local Structure Plan will guide development in the Southern River locality. Once the required modifications have been made the LSP will be consistent with state and local government strategic directions and can be approved. The SPC's support for the modifications proposed by DoP is recommended.

## ITEM NO: 9.3

### Shire of Meekatharra – Local Planning Strategy – Certification Prior to Advertising

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Statutory Planning Manager, Central Regions
AUTHORISING OFFICER:	Assistant Director General, Regional Planning
REPORT CATEGORY:	Statutory item
AGENDA PART:	E
FILE NO:	TPS/1649
DATE:	22 January 2016
ATTACHMENT(S):	1. Local Planning Strategy Map 1 - Meekatharra Townsite 2. Local Planning Strategy Map 2 - Broader Meekatharra Townsite 3. Draft Local Planning Strategy dated December 2015 4. Schedule of Modifications
DETAILS:	Local Planning Strategy for certification prior to advertising.
ADVERTISING:	N/A
SUBMISSIONS:	N/A
COUNCIL'S RESOLUTION:	Adopt for the purpose of advertising.
ENVIRONMENTAL CONDITIONS	N/A
SET & INCORPORATED:	
MINISTERIALS RECEIVED:	Nil.

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. advise the Shire of Meekatharra that the draft local planning strategy received on 7 January 2016 is to be modified in accordance with the attached Schedule of Modifications (Attachment 4);***
- 2. subject to the above modifications being satisfactorily undertaken, certify that the draft Shire of Meekatharra Local Planning Strategy and associated 'Background Information and Analysis Report' are consistent with Regulation 11(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 and provide a copy of the certification to the local government for purpose of proceeding to advertise the documents for not less than 21 days; and***



3. ***authorise Department of Planning Officers to sign off on the draft local planning strategy prior to advertising once the modifications are undertaken.***

#### **SUMMARY:**

The Shire of Meekatharra has submitted its draft Local Planning Strategy (the Strategy) for Western Australian Planning Commission (WAPC) certification prior to advertising.

The Department recommends certification of the Strategy for public advertising subject to modifications.

This item is being presented to the Statutory Planning Committee because there are no delegations to certify local planning strategies or local planning strategy amendments.

#### **BACKGROUND:**

The Shire of Meekatharra Local Planning Strategy and associated 'Background Information and Analysis Report' have been prepared concurrently with the draft Shire of Meekatharra Local Planning Scheme No. 4 (TPS 4) which will be the first scheme to extend beyond the Meekatharra townsite to include the whole local government area. TPS 4 is the subject of a separate planning report.

The Strategy accompanies a request from the Shire of Meekatharra to advertise the TPS 4 received in July 2015. In accordance with the regulations in Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, before advertising the Strategy, the WAPC must certify the Strategy as compliant with Regulation 11 (2) and provide a copy of the certification to the local government before it can proceed with advertising.

This report assesses the Strategy for compliance with Regulation 11 (2) which states:

- (2) *A local planning strategy must -*
- (a) *set out the long-term planning directions for the local government; and*
  - (b) *apply any State or regional planning policy that is relevant to the strategy; and*
  - (c) *provide the rationale for any zoning or classification of land under the local planning scheme.*

#### **LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Planning and Development Act 2005</i>
Section:	Part 5 Local Planning Schemes
<b>Legislation</b>	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Part 3

## Strategic Plan

Objectives: Manage Growth  
Performance Outcomes: PO5 Improved planning for regional communities  
Strategic Imperatives: Effectively plan for strong and resilient regional communities.

## Policy

Number and / or Name: State Planning Policy (SPP)  
SPP1 - State Planning Framework Policy  
SPP2 - Environment and Natural Resources Policy  
SPP2.5 - Agricultural and Rural Land Use Planning  
SPP2.7 - Public Drinking Water Source Policy  
SPP2.9 - Water Resources  
SPP3 - Urban Growth and Settlement  
SPP3.2 - Aboriginal Settlements  
SPP3.5 - Historic Heritage Conservation  
SPP3.7 - Planning for Bushfire Risk Management  
SPP4.1 - State Industrial Buffer Policy  
  
SPP4.1 - State Industrial Buffer (Amended) (Draft)

## DETAILS:

The Shire of Meekatharra is located in the Murchison district, approximately 775 kilometres north east of Perth and 535 kilometres east of Geraldton. Meekatharra is the administrative centre for the Shire, and located on the Great Northern Highway, forms part of a key transport route to the north of the State.

The Strategy contains objectives, strategies and actions addressing:

- climate change and environment,
- development of settlements,
- economic diversification and employment,
- developing the tourism industry,
- mining and pastoral activities,
- land supply, infrastructure and services, and
- cultural and heritage protection.

The Shire Strategy Map is included at **Attachment 1**. The Meekatharra Townsite Strategy Map is at **Attachment 2**. The Strategy includes two proposals which are particularly notable,

- i) the inclusion of Rural/Mining land use designation proposed to be included as a zone in LPS 4; and
- ii) the establishment of an extensive new general industrial estate on the northern fringe of the Meekatharra townsite of approximately 233 hectares.

These are further discussed in the Officer's Comments section of this report.

## GOVERNMENT AND CORPORATE IMPLICATIONS:

Once finalised, the Strategy will provide the local government with a principal local strategic planning instrument and it is intended that it be completed concurrently with TPS 4. This will assist the Local Government to ensure orderly and proper planning outcomes based on a clear strategic direction.

## CONSULTATION:

Informal consultation at officer level with the local government's planning consultant has occurred, resulting in modification of the documentation that was initially submitted. A copy of the modified Strategy dated December 2015 is included at **Attachment 3**. The modified document is considered to better align with the model provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* (P&D Regulations), state planning policies and WAPC practice.

It is expected that government agencies and service providers will provide comment on the Strategy during the public advertising period. The broader community will also have the opportunity to comment during this time.

## OFFICER'S COMMENTS:

It is considered that there are two key issues with the current draft of the Strategy that relate to the proposed 'Rural/Mining' land use designation and the extent of the proposed new General Industrial area on the northern fringe of the Meekatharra town site.

### Rural/Mining Land Use Designation

In addition to a Rural land use designation, the Strategy also includes a land use designation of Rural/Mining in order to support the inclusion of a Rural/Mining zone in TPS 4. There is no Rural/Mining zone provided for in the model provisions of the P&D Regulations.

The local government's planning consultant (in liaison with the local government) is reluctant to modify the Strategy to remove the Rural/Mining designation and argues that it is appropriate that the Strategy and TPS 4 reflect the actual use of the land, which may include for mining purposes.

It is recommended that modification to the Strategy be required to remove the Rural/Mining designation and include any land identified as such as Rural. Mining activities are conducted primarily in accordance with the *Mining Act 1978* administered by the Department of Mines and Petroleum (DMP). DMP is obliged to consult with local government and local planning instruments however the approval powers of the *Planning and Development Act 2005* do not apply to mining activities. For this reason it is considered that the primary purpose of land throughout Meekatharra shire should be identified as rural, where mining is the exception and considered in the context of the Rural land use designation or other land use designation as the case may be. This matter is addressed in the 'Schedule of Modifications' attached as **Attachment 4**.

### New General Industrial Area

The Strategy identifies an area larger than the current Meekatharra town site on the northern fringe of the town as new General Industry Area. The purpose is to provide opportunities for regional depots and infrastructure to establish in proximity to the town. Through officer level consultation with the Shire it appears their intention is to not only identify the proposed General Industry Area (approximately 233ha) in their strategy, but to also include it in the General Industry Zone when their new scheme is advertised.

Given the extent of industrial land identified in the strategy (approximately 233ha) and the general absence of any substantial justification, planning or technical studies to confirm the suitability of the land or demand for industrial land uses, it is suggested that the subject land be identified in the strategy as a future Industrial Investigation area. Additionally it is suggested that prior to rezoning the land for industrial uses, the land identified in the strategy for future industrial investigation will require further planning and other technical studies to be undertaken to confirm the suitability of the land and demand for supporting industrial land uses.

The recommended modifications to address this matter are included in **Attachment 4**.

### Conclusion

Subject to further modifications of the Strategy dated December 2015 as discussed in the 'Officer Comments', the Strategy is considered to be consistent with Regulation 11 (2) and should be certified as such.

## ITEM NO: 9.4

### Consideration of Lot 803 North Yunderup Road, North Yunderup Structure Plan

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Director, Peel
AGENDA PART:	G
FILE NO:	SPN/0718
DATE:	22 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Require modifications before final approval 2. Advise
ATTACHMENT(S):	1. Location Plan 2. Proposed Structure Plan 3. Schedule of Submissions 4. Indicative Density Plan 5. Schedule of Modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	Shire of Murray
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Endorse with modifications (undertaken)
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	5 August 2015
PROCESS DAYS:	113 (19/10/15 to 9/2/16)
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 803 North Yunderup Road, North Yunderup

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. require that the Structure Plan for Lot 803 North Yunderup Road, North Yunderup, dated October 2015, be modified in accordance with the schedule of modifications at Attachment 5 before final approval is given; and***
- 2. advise the Shire of Murray of its decision accordingly.***

## SUMMARY:

- The Shire of Murray seeks the Western Australian Planning Commission's endorsement of a residential Structure Plan for Lot 803 North Yunderup Drive, North Yunderup.
- The proposed structure plan is being presented to Committee for determination as the recommended modifications significantly depart from the local government's determination. In particular, various developer contribution requirements are not supported.
- It is recommended that the structure plan be approved subject to modifications.

## BACKGROUND:

On 28 November 2014 the site was rezoned from Urban Deferred to Urban under the Peel Region Scheme (PRS) and concurrently rezoned from Rural to Residential Development under the Shire of Murray Town Planning Scheme 4 (TPS4). A draft outline development plan (here-on known as a structure plan) was submitted to the Shire of Murray (the Shire) in anticipation of the concurrent scheme amendments. (**Attachment 1** - Location Plan).

In November 2014 the Shire advertised an earlier version of the structure plan.

On 14 May 2015 the Shire adopted a modified structure plan, subject to a number of further modifications satisfactory to the Shire officers, including provisions relating to the R-Codes, various developer contributions, notations addressing traffic and drainage matters and incorporating specified area rates. The modifications have been effected.

In August 2015 the Shire forwarded the modified structure plan to the WAPC for final approval. However, this plan was found to be an incorrect representation of Council's determination and a corrected version was provided to the WAPC by the proponent in October 2015 (**Attachment 2**).

## LEGISLATION / STRATEGIC PLAN / POLICY:

### Legislation

*Planning and Development Act 2005*  
*Shire of Murray Town Planning Scheme No.4*  
*Planning and Development (Local Planning Schemes) Regulations 2015*

Section:

Schedule 2, Part 4, clauses 14-29

### Strategic Plan

Objectives: Manage Growth

Performance Outcomes: PO2 Sufficient urban, commercial and industrial land supply opportunities

Strategic Imperatives: 1.1 Increase housing densities, diversity and affordability

### Policy

Number and / or Name: Directions 2031  
Draft South Metropolitan Peel Sub-regional Planning Framework  
SPP3 - Urban Growth and Settlement

## DETAILS:

The site is approximately 6.3 hectares in size, and is located 7.7 kilometres east of Mandurah and 12 kilometres north-west of Pinjarra (**Attachment 1**).

Low-density residential development exists to the south and east. Regional Open Space (ROS) exists north of the site (including Wilgie Creek) and west of North Yunderup Road.

Although the site is generally undeveloped, some clearing of vegetation has taken place. The site is generally flat, low-lying land and contains two dams which are intended to be filled.

The structure plan proposes the following:

- a) residential development between R20-R40 density, site density of 22 dwellings per site hectare and minimum lot yield of 100 lots;
- b) local development plans for rear-loaded lots, so called 'squat lots' and for lots with a frontage to North Yunderup Road;
- c) two areas of public open space (POS) totalling approximately 2000m<sup>2</sup> for drainage purposes. A cash-in-lieu contribution is proposed for the entire 10% POS requirement;
- d) a notation stating that stormwater drainage from the site may be directed into the abutting ROS reservation to the north;
- e) various management plans and conditions of subdivisional approval; and
- f) a requirement for a Deed of Agreement for pro-rata developer contributions for community infrastructure, shared path on North Yunderup Road and pro-rata contributions for upgrading and improvements to the intersection of Tonkin Drive and Pinjarra Road, including traffic light provision.

## GOVERNMENT AND CORPORATE IMPLICATIONS:

Should the structure plan be endorsed, the WAPC will be required to determine any subdivision applications for the site. A development application may also be required, if drainage from the site is proposed within the abutting ROS reservation.

## CONSULTATION:

The structure plan was advertised for 28 days until 17 December 2014. Twenty two submissions were received, including five objections. The concerns raised generally relate to site density, interface with existing development, impact on environment and traffic movement. The issues arising are summarised in the Schedule of Submissions, including Council and DoP comments (**Attachment 3** - Schedule of Submissions).



## OFFICER'S COMMENTS:

### Developer Contributions

Notations 5(e) and 7 outline a range of developer contributions that the Shire intends to seek, some of which cannot be justified for this particular subdivision, particularly as there is not an approved development contribution plan (DCP) covering such required developer contributions.. The contributions of concern relate to:

- a) upgrading of the intersection Tonkin Drive and Pinjarra Road (located approximately 1.3 kilometres to the north-east) including the provision of traffic lights;
- b) upgrading the Wilgie Creek bridge to include a shared path, with additional contributions towards a shared path north of the bridge; and
- c) community infrastructure identified within the Shire's Community Infrastructure Plan 2013 for the Furnissdale/North Yunderup area.

The following comments are provided in regard to the abovementioned concerns:

- a) the need and nexus for immediate upgrading the intersection of Tonkin Drive and Pinjarra Road and contribution towards proposed traffic lights at the intersection has not been demonstrated by either the Transport Statement or Main Roads WA. Although development of the site would generate traffic that uses this intersection, it has not been demonstrated that the amount of traffic generated from this estate would cause the intersection to become congested. Accordingly, the structure plan should not make reference to such a contribution;
- b) Wilgie Creek Bridge is a 7 metre wide two way road on North Yunderup Road, north of the site. The Shire has clarified that these contributions are not intended to be fully funded by the proponent but would be partly funded by the Shire and adjoining developers to the north, in due course. However, the absence of a DCP creates uncertainty as to how the costs would be apportioned and over what time frame the upgrading would occur. Given that all development and the main desire lines in the locality (including the subject site) are currently south of the bridge, it is recommended that the structure plan not make reference to contributions towards upgrading the bridge or the shared path north of the bridge;
- c) with regard to community infrastructure, no formal DCP has been progressed in the form of an amendment to the local planning scheme for the abovementioned contributions. In addition, no voluntary agreement with the proponent has been secured for such contributions. It is therefore considered inappropriate for the structure plan to specify the need for such a contribution.

In light of the above, it is recommended that all notations at 5e) and 7) be deleted from the structure plan.

### Bushfire Considerations

The western, eastern and northern portions of the site are mapped as bushfire prone areas. The proponent has provided a staged indicative Bushfire Attack Level (BAL) report consistent with the indicative density plan (Attachment 4). These documents have not yet been endorsed by the Local Government and Department of Fire and Emergency Services. The BAL report indicates that the Asset Protection Zones (APZ) in the eastern portion of the site would impinge on an abutting private lot (Lot 200).

The lack of separation between the residential cell in the eastern portion of the site and the fire hazard that arises from existing vegetation on neighbouring Lot 200 is problematic. As a result of the intended lot depth of 20 metres in this area, there is no ability for the proponent to ensure that the required 20 metre wide (APZ), as described in the WAPC's *Guidelines for Planning in Bushfire Prone Areas*, will be created and maintained around the future dwellings, as this would depend on the actions of the adjoining landowner.

The staged indicative BAL report indicates that lots along the eastern boundary are to be withheld from sale until adjoining Lot 200 is cleared or an APZ is installed within Lot 200. However, this approach assumes that the WAPC would be prepared to approve creation of these lots without an appropriate APZ in place, which may not be the case. It is recommended that a provision be included in the structure plan which highlights the importance of examining this particular issue carefully at the subdivision stage.

It is also recommended that a Bushfire Management Plan be endorsed prior to subdivision, rather than as a condition of subdivision approval.

### Public Open Space (POS)

The structure plan provides approximately 2016m<sup>2</sup> of POS deductions for drainage purposes, requiring 6.0333ha of POS be provided to meet the 10% POS requirements. In this respect, no active POS is proposed as the site abuts two extensive passive recreation areas of ROS abutting Wilgie Creek to the north, and the active Kingfisher Park reserve (Reserve 21019) approximately 700m south.

The POS shortfall is proposed as a cash-in-lieu contribution at Notation 3. Given the availability of POS in the area, it is acceptable to consider a cash-in-lieu contribution for the shortfall as part of a future subdivision application.

### Drainage within Regional Open Space

The structure plan sets out, at Notation 6.2, that stormwater drainage may be directed into the ROS reserve (Lot 802, #74), which abuts the subject site to the north.

A Local Water Management Strategy (LWMS) has been prepared in support of the structure plan and indicates drainage for rainfall events to the 5 year ARI are to be directed to POS within the site and to a swale within the ROS, which includes appropriate scour protection.

The proponent has consulted with the Department of Planning staff, local government and the Department of Water (which manages the Wilgie Creek) for a portion of the structure plan site drainage being directed within the ROS, with overflow to Wilgie Creek. The landowner has indicated support to landscape and re-seed the site to rehabilitate the reserve, commensurate to the value of land that would otherwise be required for drainage purposes, as an offset for use of public land.

Although there is merit in the proposal, with potential to improve the degraded ROS and improve the condition of Wilgie Creek, development within an ROS reserve is a separate statutory process. Accordingly it is recommended that Notation 6.2 be deleted from the structure plan and Part One Implementation section. The proponent has been consulted about this.

### Density

The structure plan identifies all areas with an R20-R40 density coding and provides for a Residential Density Code Plan to be approved by the WAPC at the time of subdivision. Although, no locational criteria for establishing the final R-codings are outlined in the structure plan, an indicative density plan has been included in the structure plan (**Attachment 4** - Indicative Density Plan) which is considered to be a reasonable guide to the density plan.

It is noted that the structure plan provides for Local Development Plans (LDPs) to specify a minimum frontage requirement of 15 metres for lots along North Yunderup Road in order to compliment the character of the area, which differs from the frontage requirements of the R-codes. As the R-codes do not enable lot frontage requirements to be varied, the requirement for LDP's to include a requirement for 15 metre frontages should be deleted from the structure plan. As a result, the standard R-code minimum frontages will apply, which are 10 metres (R20), 8 metres (R25), no minimum (R30 to R40). Deleting reference to a minimum frontage requirement of 15 metres would not prevent the proponent from proposing 15 wide lots at the subdivision stage, if so desired.

### Other Considerations

The notations on the plan should be removed and incorporated into the structure plan text.

A significant number of notations are recommended to be deleted as they are inconsistent with WAPC policy, do not have a planning purpose or are subject to separate statutory processes, as detailed within this report.

Minor administrative modifications are also recommended to provide clarity in interpreting the plan, and for consistency with the WAPC's Structure Plan Framework.

The recommended modifications are set out in **Attachment 5** (Schedule of Modifications).

### Justification

The ODP is supported for the following reasons:

- a) The ODP will facilitate development of a wider range of dwelling types, providing greater housing choice and diversity in the locality;
- b) The proposal is consistent the State Government policy direction relating to the more efficient use of appropriately located urban land; and
- c) the site can be appropriately serviced.

## ITEM NO: 9.5

### Development Proposed Tourist Chalets – Lot 291 Hardwick Road, Millendon

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Metropolitan Planning North East, Perth and Peel Planning
AUTHORISING OFFICER:	Director, North East , Perth and Peel Planning
AGENDA PART:	G
FILE NO:	21-50475-1
DATE:	19 February 2016
ATTACHMENT(S):	1. Development Plans 2. Aerial View 3. Location Plan/Zoning Map
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	City of Swan
LOCAL SCHEME ZONING:	Swan Valley Rural
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	West Swan
RECEIPT DATE:	8 December 2015
PROCESS DAYS:	13
APPLICATION TYPE:	Development
CADASTRAL REFERENCE:	Lot 291 Hardwick Road, Millendon.

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to approve the application for the proposed development on Lot 291 Hardwick Road, Millendon subject to the following conditions:***

#### CONDITIONS:

1. ***Development must be in accordance with the following plans:***
  - (a) ***Proposed Site Plan, Dwg No. A 01, date stamped 5 January 2016;***
  - (b) ***Proposed Floor Plan, Dwg No. A 02, date stamped 5 January 2016;***
  - (c) ***Proposed Electrical Plan, Dwg No. A 03, date stamped 5 January 2016;***
  - (d) ***Kitchen and Robes Elevations, Dwg No. A 04, date stamped 5 January 2016;***
  - (e) ***Front and Rear Elevations, Dwg No. A 05, date stamped 5 January 2016;***

- (f) ***Right Side and Left Side Elevations, Dwg No. A 06, date stamped 5 January 2016; and***
  - (g) ***Section AA and Strip Footing Detail, Dwg No. A 07, date stamped 5 January 2016.***
2. ***Storm water shall be contained on-site, or appropriately treated and connected to the local drainage system to the specifications of the City of Swan.***
  3. ***A Landscaping Plan addressing the screening of the proposed shed is to be prepared, implemented and maintained to the specifications of the City of Swan.***

## **SUMMARY:**

The application seeks approval for the construction of two tourist chalets on Lot 291 Hardwick Road, Millendon. The land is within 'Area B' of the *Swan Valley Planning Act 1995*. The application is considered consistent with the objectives of the Swan Valley Planning Act 1995 for Area 'B' and the objectives of the City of Swan Local Planning Scheme No.17 for the 'Swan Valley Rural' zone.

The Swan Valley Planning Committee (SVPC) recommended that the application be approved subject to the chalets being setback a minimum distance of 30m from Hardwick Road. The City of Swan has approved the application which shows the chalets setback a distance of 15m.

The application has been referred to the Western Australian Planning Commission (WAPC) pursuant to Clauses 26(3) and 30B(5) of the MRS due to the City of Swan's decision being at variance with the SVPC's recommendation.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Swan Valley Planning Act 1995</i>
	<i>Metropolitan Region Scheme</i>
Section:	<i>Swan Valley Planning Act 1995 - Section 8</i>
	<i>Metropolitan Region Scheme Text - Part III subclause 26(3) &amp; Part IV subclause 30B(5)</i>

<b>Strategic Plan</b>	
Strategic Goal:	Planning
Outcomes:	Planned Local Communities Developing a Sense of Place
Strategies:	Encourage innovation in the design of our communities

<b>Policy</b>	
Number and / or Name:	<i>Swan Valley Interim Planning Policy 2014</i>

## **INTRODUCTION:**

The application seeks approval for the construction of two tourist chalets for the purpose of short term accommodation on Lot 291 Hardwick Road, Millendon (**Attachment 1** - Proposed Development Plan). The subject lot is 3.8032 hectares in

area. Each proposed chalet is 58.5m<sup>2</sup> in area and 3.245 metres in height including roof pitch. The chalets are proposed to be setback 15 metres from Hardwick Road and 25.6 metres from the nearest lot boundary. There is an existing dwelling and outbuildings on the land (**Attachment 2** - Aerial View).

The subject land is zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Swan Valley Rural' zone under the City of Swan Local Planning Scheme No.17 (LPS 17) (**Attachment 3** - Local Zoning Plan). The land is located within 'Area B' of the *Swan Valley Planning Act 1995 (SVP Act)*.

### **CONSULTATION:**

The SVPC resolved that the proposal is consistent with the planning objectives of the SVP Act and recommends the application be approved subject to the chalets being setback 30 metres from Hardwick Road.

The City of Swan has approved the application (subject to conditions) showing the chalets setback a distance of 15m from Hardwick Road.

### **PLANNING ASSESSMENT:**

#### *City of Swan Local Planning Scheme No.17 (LPS No.17)*

The property is zoned 'Swan Valley Rural' under LPS 17. The objectives of the Swan Valley Rural zone is to ensure that prime agricultural land remains intact and that proposed development and land uses do not conflict with the objectives of the Swan Valley Planning Act.

The use of "Cabin or Chalet" is a "D" (discretionary) use within the 'Swan Valley Rural' zone of LPS No.17. The proposal was advertised to surrounding landowners and one submission was received from the owner of Lot 279 Hardwick Road, which is directly opposite the application area. The submission stated that there was no objection to the proposed development and use, however, the landowner objected to the proposed setback of 15 metres on the grounds that it would locate the chalets too close to their house and suggested a setback distance of 20 metres would be appropriate in conjunction with additional vegetation being planted at the street boundary to provide visual and acoustic screening. The City advises that the applicant has already commenced the planting of additional vegetation.

The City's LPS No.17 and Local Policy - *Rural Zones - Building and Development Standards* do not specify a minimum setback requirement for the 'Swan Valley Rural' zone and state that setbacks are to be negotiated with the Council at the time of an application for development approval.

#### *Swan Valley Interim Planning Policy (SVIPP)*

The SVIPP was endorsed by the Swan Valley Planning Committee and the Western Australian Planning Committee in July 2014 for the purpose of assisting authorities in interpreting the objectives of the *Swan Valley Planning Act* when considering or determining applications within the SVP Act area.



The SVP Act and SVIPP encourage the development of tourist facilities within the Swan Valley, provided that they do not detract from the rural character of the area. The SVIPP provides no specific guidance on the siting of tourism related buildings.

Existing built development along this portion of Hardwick Road varies in regard to setback distances from 11 metres to 20 metres. The dwelling on the opposite side of Hardwick Road is setback 15 metres from the street frontage. The positioning of the proposed chalets is therefore consistent with the prevailing character of the locality.

The chalets are proposed to be constructed in colours and materials sympathetic to the rural setting. The visual impact of the proposed chalets can be further addressed by the planting of vegetation screening. The proposal would not detract from the rural character of the area and is therefore consistent with the objectives of the SVP Act and the SVIPP.

Additionally, the applicant has advised that the remainder of the subject lot is used for agricultural purposes and the keeping and training of horses. The proposed location of the chalets allows for these rural pursuits to continue unaffected.

#### **CONCLUSION:**

The proposal complies with the Commission's *Swan Valley Interim Planning Policy*, the general planning objectives and the area specific planning objectives of the *Swan Valley Planning Act* 1995 and the City of Swan Local Planning Scheme No.17. It is consistent with prevailing development within the locality and would not detract from the rural character of the Swan Valley. It is recommended that the application be approved subject to conditions.

## ITEM NO: 9.6

### Endorsement of Lakelands North Structure Plan

**WAPC OR COMMITTEE:** **Statutory Planning Committee**

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel Planning
AUTHORISING OFFICER:	Director, Peel Planning
AGENDA PART:	C
FILE NO:	SPN/0688
DATE:	22 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Require modifications before final approval 2. Following completion of the modifications, the approval shall be valid for a period of 10 years.
ATTACHMENT(S):	1. Location Plan 2. Proposed Structure Plan Map and Part One text 3. Schedule of Submissions 4. Schedule of Modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	Mandurah
LOCAL SCHEME ZONING:	Urban Development
LGA RECOMMENDATION(S):	Adopt
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	7 August 2015
PROCESS DAYS:	93 days (since 19 October 2015)
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 101 Mandurah Road, Mandurah

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. require that the Lakelands North Structure Plan, dated August 2015, be modified in accordance with the schedule of modifications appended as Attachment 4 before final approval is given; and***
- 2. advise the City of Mandurah of its decision accordingly.***

#### SUMMARY:

The City of Mandurah (the City) has forwarded the proposed Lakelands North Structure Plan (Structure Plan) to the Western Australian Planning Commission (WAPC) for its approval.

The Structure Plan encompasses an area of approximately 120 hectares and provides for the creation of approximately 1,880 lots and 1,920 dwellings to accommodate a population of approximately 5,376 people.

The Structure Plan is being submitted to the Statutory Planning Committee for its consideration due to issues arising from the assessment of the plan. In particular, the recommendation of this report does not fully accord with Council's determination or the submission from Main Roads Western Australia (MRWA).

It is recommended that the WAPC require a number of modifications to be made to the Structure Plan.

## **BACKGROUND:**

The proposed Structure Plan relates to Lot 101 Mandurah Road, Lakelands, located at the northern boundary of the Peel Region and approximately 8.5 kilometres north of the Mandurah City Centre (**Attachment 1** – Location Plan).

The Structure Plan area is bounded by Mandurah Road to the west and the Mandurah Railway line reserve to the east. The land to the north is zoned Parks and Recreation under the Metropolitan Region Scheme (MRS). The land to the south is subject to the Lakelands West Structure Plan which has been formally endorsed by the WAPC.

In December 2015, a 53 hectare portion of the site was rezoned from Rural to Urban under the PRS. Under section 126(3) of the *Planning and Development Act 2005* the land was concurrently rezoned Urban Development under the Town Planning Scheme No 3 (TPS3).

The Structure Plan area comprises undeveloped land that formerly operated as a limestone quarry. The land is substantially cleared with some mature vegetation scattered across the site.

The Structure Plan was adopted by the City subject to modifications in July 2015 and was forwarded to the WAPC for determination in August 2015. It is noted that the Structure Plan adopted by Council differentiates between the portions of the site zoned Urban and Rural under the Peel Region Scheme (PRS) due to the structure plan pre-dating the abovementioned amendment to the PRS.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Schedule 2, Part 4
<b>Strategic Plan</b>	
Objectives:	Planning
Performance Outcomes:	Effective Delivery of Integrated Plans
Strategic Imperatives:	Develop integrated infrastructure and land use plans for the State

## Policy

Number and / or Name: Liveable Neighbourhoods  
State Planning Policy 5.4 - Road and Rail Transport  
Noise and Freight Considerations in Land Use Planning

## DETAILS:

The Structure Plan consists of three parts, Part One 'Implementation', Part Two 'Explanatory Section', and Part Three 'Technical Appendices' section. The main Structure Plan map and Part One text are provided as **Attachment 2**.

The proposed Structure Plan provides a framework to facilitate residential subdivision and includes the following:

- residential density coding ranging from RMD30 to RMD40;
- a 1.5 hectare contribution toward a high school site and a 3.5 hectare primary school site;
- a public open space (POS) network including approximately 4.4 hectare contribution toward district playing fields;
- three intersections with the Mandurah Road:
  - left-in on the northern boundary of the Structure Plan;
  - left-in/left-out to the north of the school site and district playing fields; and
  - a signalised T intersection, that can be converted into a future four-way intersection.

## GOVERNMENT AND CORPORATE IMPLICATIONS:

The WAPC will be required to determine any future subdivision applications.

## CONSULTATION:

The Structure Plan was advertised for public comment by the City for a period of 30 days from 14 April to 15 May 2015. Ten submissions were received during the advertising period. The proposed left-in/left-out intersection with Mandurah Road was the key issue raised.

The submissions are summarised, together with Council's and the Department of Planning's comments and recommendations, in the Schedule of Submissions (**Attachment 3** – Schedule of Submissions).

In September 2015, the Department of Planning met with the proponent and MRWA to discuss the implications of the Structure Plan in terms of Mandurah Road. Although MRWA is now agreeable to the left-in/left-out being constructed first, the two parties do not agree on the terms under which construction of the signalised T intersection will occur, as discussed below.

## OFFICER'S COMMENTS:

### Mandurah Road Intersections

The proponent has proposed that the left-in/left-out provide the initial access to the Structure Plan area and that the signalised T intersection be constructed at the completion of the construction of the fourth stage of subdivision or 31 December 2018. This would effectively mean that a total of approximately 206 residential lots in stages 1-3 could be created prior to the construction of the intersection.

MRWA are agreeable to the left-in/left-out providing the initial access to the structure plan area. However, MRWA are of the view that the signalised intersection should be constructed at the completion of the third stage of subdivision or by 31 December 2017. Under this option, approximately 139 residential lots in stages 1 and 2 could be created.

MRWA has also requested that the proponent provide security in the form of a bond or bank guarantee to ensure the funds required to construct the signalised T intersection are available. The proponent considers MRWA requirement for security to be financially onerous during the initial stages of the development.

It is considered that the proponent's suggested approach is reasonable and preferable to the more onerous requirements suggested by MRWA. It is recommended that part one of the Structure Plan be modified to set out the trigger point for constructing the signalised T intersection as follows:

*'Prior to 31<sup>st</sup> December 2018 or lodging a request to the WAPC for clearance of the fourth stage of subdivision (after approximately 206 lots), whichever occurs first, the proponent is required to construct the signalised T intersection for Mandurah Road and the proposed Integrator B road to the specifications and satisfaction of Main Road Western Australia at the full cost of the proponent.'*

### Residential Density

The Structure Plan proposes densities of RMD30 and RMD40. The structure plan includes a provision allowing lots coded RMD40 to be developed to a maximum density of Residential R80 subject to development occurring as a group dwelling, development on a site with a minimum area of 800m<sup>2</sup> and dual road frontage. This aspect of the Structure Plan is not supported as the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) do not allow a Structure Plan to vary the R-codes.

The deletion of the R80 density provisions have been discussed with the proponent and the City. Both parties expressed a desire to facilitate a limited number of R80 grouped dwelling sites within the Structure Plan area. An alternative approach, more consistent with the Regulations, would be to replace the RMD40 areas with an RMD40-R80 density range. This density range would not precisely align with the typical R40-R60 and R80-R100 ranges set out in the Structure Plan Framework. However, the framework does provide some scope for other ranges to be specified, where it can be justified. In this instance the RMD40 – R80 range would reflect Council's original intention to allow some higher density pockets to be created where

specific criteria are met. This approach is considered to be acceptable as it would promote diversity in the style of dwelling development in the Structure Plan area.

Further to the above it is recommended that the locational criteria contained within the Structure Plan be modified in order to provide further clarity for density allocation.

### Bushfire Considerations

Approximately 77 hectares of the property is mapped as Bushfire Prone. The proponent has prepared a bushfire management plan, which has been reviewed by the Department of Fire and Emergency Services.

Although much of the site is mapped as Bushfire Prone, the key area of concern is the northern boundary of the Structure Plan, which proposes residential development adjacent to the Parks and Recreation reservation under the MRS. The staging plan indicates that there will be a road along the northern boundary of the site, which would provide separation from the reservation. As a result no fatal flaws with the design of the Structure Plan are apparent at this stage. It is intended to examine bushfire considerations in more detail at the subdivision stage.

### Other Considerations

The Structure Plan was submitted to the WAPC for approval, prior to the gazettal of the Regulations and release of the WAPC's Structure Plan Framework. In recognition of this, the Structure Plan format should be updated, as far as it is considered practical and reasonable to do so. For the purposes of this report, the modifications to the Structure Plan documents have been divided into three parts the Structure Plan map, text and administrative modifications and are detailed in the Schedule of Modifications (**Attachment 4** – Schedule of Modifications).

The recommended Structure Plan Map modifications are depicted on a plan forming part of Attachment 4 and include:

- a) the delineation between the portion of the site zoned Urban under the PRS and formerly zoned Rural under the PRS being removed;
- b) preferred grouped dwelling sites being removed from the plan and legend;
- c) outline development plan notes being deleted from the plan; and
- d) the RMD40 areas being changed to RMD40-R80 areas.

The key recommended modifications relating to the Structure Plan text (Part One) include:

- a) insert clause 3 'Staging' and include text relating to the timing of the signalised intersection (modification 9);
- b) modify Clause 5 'General Subdivision and Development Requirements' to link zones and land use permissibility to the local planning scheme, provisions relating to density targets, density plan and location criteria for density in response to the inclusion of the RMD40-R80 density range (modifications 10-14);
- c) restructure existing local area plan provisions and lot notifications in accordance with the requirements of the framework (modifications 15 & 16);
- d) delete Table A - General Planning Requirements, Table B - R-code Variations and the Road and Path Master Plan (modification 18).

Part Two of the Structure Plan text should be updated to reflect the modifications to Part One – Implementation. Other recommended modifications of an administrative nature are not discussed in detail and are included in Attachment 4.

### Conclusion

The Structure Plan is considered to be satisfactory as a framework to facilitate the future development of the area. It is therefore recommended that the WAPC require the Structure Plan to be modified in accordance with the attached schedule of modifications before final approval is given.



## ITEM NO: 9.7

### **Request for Reconsideration of a Refusal to an Application for Subdivision to Create Two (2) Lots for Commercial Purposes – Lot 1001 Ellersdale Avenue, Warwick**

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: Manager Planning Metropolitan North West  
AUTHORISING OFFICER: Director Planning Metropolitan North West  
AGENDA PART: G  
FILE NO: 151883  
DATE: 2 February 2016  
REPORT CATEGORY: Statutory  
RECOMMENDATION OUTCOME: 1. Note  
2. Refuse  
ATTACHMENT(S): 1. Zoning/Location Plan  
2. Subdivision Plan  
3. Aerial Photo

#### **RECOMMENDATION:**

***That the Statutory Planning Committee:***

- 1. notes that the City of Joondalup has advised that a structure plan for the Warwick Secondary Centre is currently being prepared; and***
- 2. advises the applicant that the Statutory Planning Committee has reconsidered the decision dated 11 August 2015 to refuse the subdivision application (WAPC Ref: 151883), and has resolved to reiterate the decision and refuse the application for the following reasons:-***
  - i. The proposal represents an unplanned breakdown of landholdings and is inconsistent with State Planning Policy 4.2 Activity Centres for Perth and Peel which seeks to ensure an integrated and co-ordinated approach to the development of activity centres.***
  - ii. The proposal is contrary to orderly and proper planning in that the subject land form part of a larger commercial area which requires comprehensive pre-planning in accordance with State Planning Policy 2.4 Activity Centres for Perth and Peel. Approval to the***

***subdivision would be premature and prejudice the overall planning of the area.***

***iii. The proposal would set an undesirable precedent for the further subdivision and fragmentation of surrounding lots.***

## **SUMMARY:**

The key points relating to this report are as follows:

- A structure plan is being prepared by major landowners within the centre, in accordance with *State Planning Policy 4.2 Activity Centres for Perth and Peel* (SPP 4.2). Approval of the subdivision may undermine the development of the structure plan.
- Approval of the subdivision would create an undesirable precedent for the support of future subdivision proposals within the activity centre.
- Battle-axe lot configurations are not appropriate within the context of activity centres, as they limit opportunities for access connections within the centre.

## **BACKGROUND:**

On the 12 August 2015, the Western Australian Planning Commission (WAPC), under delegation, refused subdivision approval for the creation of two (2) commercial lots in the Warwick Secondary Centre, Lot 1001 Ellersdale Avenue, Warwick.

A request for reconsideration was received by the WAPC on 8 September 2015. Pursuant to Schedule 2 of the Instruments of Delegation, power to determine reconsideration requests rests with the Statutory Planning Committee, where a refusal is being recommended.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	Planning and Development Act 2005
Section:	Part 10 - Section 144(2)

<b>Strategic Plan</b>	
Objectives:	Strategic Goal 2 - Planning
Performance Outcomes:	Effective Delivery of Integrative Plans
Strategic Imperatives:	Implement State and Regional Planning Priorities

<b>Policy</b>	
Number and / or Name:	Statutory Planning Policy 4.2 Activity Centres for Perth and Peel

## **DETAILS:**

The subject lot is zoned 'Urban' pursuant to the Metropolitan Region Scheme (MRS) and 'Commercial' pursuant to the City of Joondalup's District Planning Scheme No. 2 (DPS 2) (**Attachment 1** - Zoning/Location Plan).

The application seeks to subdivide Lot 1001 Ellersdale Avenue, Warwick, into two (2) lots of 3032m<sup>2</sup> (Proposed Lot A) and 3761m<sup>2</sup> (Proposed Lot B) for commercial purposes (**Attachment 2** - Subdivision Plan).

Proposed Lot A contains an existing daycare centre and associated car parking which are to be retained. Proposed Lot B contains an overflow car parking area (**Attachment 3** - Aerial Photo). The subdivision layout comprises a battleaxe leg to the rear lot with a reciprocal access easement in favour of the front lot.

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

Nil

## **CONSULTATION:**

The City of Joondalup does not support the proposal for the following reasons:

1. Council at its meeting held February 2014 resolved, pursuant to clause 9.1 and 9.11 of District Planning Scheme No. 2 to require the preparation of a structure plan to Council for the Warwick Activity Centre prior to support for an application to subdivide or develop;
2. Support for the subdivision ahead of the structure plan is likely to prejudice development of the future structure plan; and
3. Further fragmentation of landownership will make it difficult to ensure an integrated and coordinated approach to future development and subdivision consistent with SPP 4.2.

## **OFFICER'S COMMENTS:**

### Applicant's Justification

The applicant's reasons for reconsideration are summarised as follows:

1. While the notion of a co-ordinated approach is supported, there is concern a structure plan for the centre has not been progressed and there is no foreseeable timeframe for when development of the land may be considered.
2. The subdivision is a rationalisation of land that is unlikely to be amalgamated or integrated in an expanded structure plan. The proposed lot configuration does not prejudice future redevelopment opportunities and will facilitate future development of the land consistent with its commercial zoning.

3. It is unreasonable to stop subdivision of land, on the basis that fragmentation of land will make future options for development difficult to achieve when there is no clear understanding of future land use mix or when a structure plan for the centre is likely to be finalised. Furthermore, the inability to subdivide or develop the land places an unfair financial burden on the landowner without the capacity to minimise financial exposure.

### Assessment

SPP 4.2 identifies the Warwick Grove Shopping Centre as a 'Secondary Centre' in the Activity Centre Hierarchy. Pursuant to Clause 6.4 (2) of SPP 4.2, an activity centre structure plan should be endorsed prior to any major development being approved to ensure that the centre is developed in an integrated, cohesive and accessible manner. The City of Joondalup has advised that a structure plan is currently being prepared for the activity centre, by the two major landowners.

It is acknowledged that the subdivision of the land does not constitute major development as defined by SPP 4.2. However this does not obviate the need to assess proposals on their planning merit and in the context of the broad objectives of the policy framework.

Pursuant to Clause 9.11 of District Planning Scheme No. 2, where a structure plan has yet to be endorsed, Council is required to consider the desirability from a planning viewpoint of having an agreed structure plan in place before subdivision or development occurs as well as the interests of orderly and proper planning in the short, intermediate and long term.

The Warwick Activity Centre consists of a number of individual landholdings (refer **Attachment 1**). Further fragmentation of land may undermine opportunities for the Centre to develop in a co-ordinated and cohesive manner and establish an undesirable precedent for the further subdivision of land within the centre.

### **CONCLUSION**

Structure planning of the centre will ensure a coordinated approach to its development in light of the existing fragmented ownership and multiple interests. Furthermore, the structure plan process would provide an opportunity for landowners to comment on the plan. The subdivision of land is therefore considered premature prior to structure planning, as it will likely prejudice or limit options for the centre, particularly in terms of access connections and land assembly. To this end, it is recommended the Western Australian Planning Commission refuse the request for reconsideration and reaffirm refusal of the proposal.

## ITEM NO: 9.8

### **Request for Reconsideration of a Refusal to an Application for the Subdivision of Lot 98 Gull Road, Serpentine into One Lot of 17.86 Hectares and One Lot of 12.84 Hectares**

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Director
AUTHORISING OFFICER:	Planning Director
AGENDA PART:	H
FILE NO:	WAPC Ref: 151587
DATE:	6 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Reaffirm the decision to refuse to approve the application for subdivision with additional reason.
ATTACHMENT(S):	1.Location Plan 2.Subdivision Plan 3.Photographs of rural drain and road 4. Applicant's Grounds for Reconsideration
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	Serpentine Jarrahdale
LOCAL SCHEME ZONING:	Rural
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	Metropolitan South East
RECEIPT DATE:	24 July 2015
PROCESS DAYS:	
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 98 Gull Road, Serpentine

#### **RECOMMENDATION:**

***That the Statutory Planning Committee resolves to affirm the decision of 25 June 2015 and refuse the application for the subdivision of Lot 98 Gull Road, Serpentine for the following (amended) reasons:***

- 1. approval of this application would contravene Section 138(2) of the Planning and Development Act 2005 which requires the Western Australian Planning Commission to not issue an approval that conflicts with the provisions of the relevant local planning scheme;***
- 2. the proposal is not consistent with Clause 5.10.4 of the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 which states that Council will generally not support subdivision within the Rural Zone that will result in the creation of lots less than 40 hectares;***

3. *the application does not comply with the Serpentine Jarrahdale Rural Strategy 1994 (as reviewed in 1996, 2002) which recommends a minimum lot size of 40 hectares for land in the Rural Policy Area;*
4. *the application does not comply with the principles and objectives of WAPC State Planning Policy No.2.5 - Land Use Planning in Rural Areas; and*
5. *approval of this application would create an undesirable precedent for further ad hoc subdivision of land in this locality, in a manner inconsistent with the principles of orderly and proper planning.*

### **APPLICATION DEFERRED**

*The application was deferred at the meeting on 27 October 2015 to allow Committee members to undertake a site inspection.*

### **SUMMARY:**

- The subdivision application relates to Lot 98 Gull Road, Serpentine.
- The proposed subdivision, to create rural residential/farmlet size lots, does not comply with State Planning Policy 2.5 (SPP 2.5), Development Control Policy 3.4 (DC 3.4), the Shire of Serpentine Jarrahdale Rural Strategy or the planning principles contained in Draft Perth and Peel@3.5million or Draft Metropolitan and Peel Sub-regional Planning Framework.
- Approval to the subdivision would be tantamount to the creation of lot sizes akin to Farmlet by stealth without any proper planning justification.
- It is recommended that the Request for Reconsideration be refused and the decision of 25 June 2015 affirmed.

### **LEGISLATION / STRATEGIC PLAN / POLICY:**

**Legislation** *Planning and Development Act 2005*  
**Section:** Part 10, Clauses 135, 138, 144

**Strategic Plan**  
**Objectives:** Planning  
**Performance Outcomes:** Effective delivery of integrated plans  
**Strategic Imperatives:** Implement State and Regional Planning priorities

**Policy**  
**Number and / or Name:** State Planning Policy 2.5, Development Control Policy 3.4, draft Perth and Peel@3.5million, draft Metropolitan South and Peel Sub regional Planning Framework, Perth and Peel Green Growth Plan for 3.5million suite of documents.

### **INTRODUCTION:**

On 25 June 2015 an application for the subdivision of Lot 98 Gull Road, Serpentine was refused for the following reasons:-

1. *Approval of this application would contravene Section 138(2) of the Planning and Development Act 2005 which requires the Western Australian Planning Commission to not issue an approval that conflicts with the provisions of the relevant local planning scheme.*
2. *The proposal is not consistent with Clause 5.10.4 of the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 which states that Council will generally not support subdivision within the Rural Zone that will result in the creation of lots less than 40 hectares.*
3. *The application does not comply with the principles and objectives of WAPC's State Planning Policy No.2.5 - Land Use Planning in Rural Areas.*
4. *Approval of this application would create an undesirable precedent for further ad hoc subdivision of land in this locality, in a manner inconsistent with the principles of orderly and proper planning.*

The following advice was provided to the applicant:-

1. *While the subject land is proposed to be included within the Farmlet Policy Area (Rowe Road Precinct) in the draft Rural Strategy Review (2013) as adopted by the Shire, the draft Rural Strategy Review has not been certified by the WAPC as such and is not considered a seriously entertained planning document.*

*The land is identified within the Rural Policy Area in the Rural Strategy (endorsed by the WAPC in 2013(sic)) which reflects the zoning in the Shire of Serpentine Jarrahdale Town Planning Scheme and the underlying zoning in the Metropolitan Region Scheme.*

## **CONSULTATION:**

The original application was referred to the local government, Water Corporation, Western Power, Department of Parks and Wildlife, Department of Water and Department of Health.

The servicing and other agencies raised no objections subject to, where relevant, the imposition of conditions.

The Shire of Serpentine Jarrahdale (the Shire) recommended approval to the application subject to conditions including matters pertaining to vegetation, vehicle crossovers, firebreaks, and section 70A of the *Transfer of Land Act* notifications relating to potable water and sewerage.

The application was not re-referred to the consulting agencies as a result of the application for reconsideration as no new information has been raised.

## **PLANNING COMMENTS:**

### Description of Land and Application for Subdivision

Lot 98 Gull Road is situated approximately 4kms west of the Serpentine Townsite. The land, which also has frontage to Rowe Road, is 30.712ha in area. The land is separated into two moieties by a rural drain. A location plan is at **Attachment 1**.



The land is largely cleared with vegetation occurring along fence lines for paddock demarcation and along both sides of the rural drain. There are no dwellings or other buildings on the land. At the time of officer inspection (October 2015) the land was being used to graze two flocks of sheep (ewes and lambs).

On 12 March 2015 an application to subdivide Lot 98 Gull Road into one lot of 17.86ha and one lot of 12.84ha was submitted to the WAPC. The subdivision plan is at **Attachment 2**. The application was refused under delegated authority on 25 July 2014. A request for reconsideration of the decision has been submitted. The grounds and Department of Planning (DoP) response are contained later in this report.

### MRS and TPS Zoning

Lot 98 Gull Road, Serpentine, is zoned **Rural** in both the Metropolitan Region Scheme and in the Shire of Serpentine Jarrahdale (the Shire) Town Planning Scheme No.2 (TPS 2).

Land zoned Rural under the MRS is intended to be used for a variety of rural purposes but subdivision does not exist as of right. WAPC assessment of subdivision and future land use is guided by a State Planning Policy, a Development Control Policy and any endorsed or certified strategy.

Clause 5.10.4 of TPS 2 states:

*"5.10.4 The Council will generally not support subdivision within the Rural zone that will result in the creation of lots less than 40 hectares."*

### Shire of Serpentine Jarrahdale Rural Strategy

The land is within the 'Rural Policy Area' of the (2002) Rural Strategy where there is a recommended minimum lot size of 40 hectares, inter alia, as a disincentive to the subdivision of rural zoned land. The Rural Policy area covers most of the Shire of Serpentine Jarrahdale where it is acknowledged that due to historical influences, lot sizes are eclectic but it would not be appropriate to allow ad hoc subdivision. The Rural Strategy was first adopted by the Shire in 1994 and reviewed in 1996 and 2002. It is endorsed by the WAPC.

The Rural Strategy is essentially a settlement strategy which defines the Shire's urban nodes, identifies where further investigation is required for urban or rural development and designates the balance of the municipality into Rural, Agricultural Protection, Rural Living, Farmlet (4ha to 40ha), Residential and Stable and Conservation Policy areas. Rural Living and Farmlet Policy areas were carefully selected where they followed a settlement pattern, minimised intrusion into traditional agricultural areas and could be serviced. The principles of the Rural Strategy have been successfully defended by the WAPC in the Town Planning Appeal Tribunal (TPAT) and State Administrative Tribunal (SAT).

The existing Rural Strategy defines Farmlet as; *'small farms that could support alternative forms of settlement, such as hobby farms'*. Advice received from the Department of Agriculture and Food recommended that the use of Farmlet lots (4ha or 8ha to 10ha) for intensive agriculture or intensive rearing of animals should be discouraged. Accordingly, the Farmlet Policy Area in the Rural Strategy was carefully selected to exclude areas with low soil productivity or those that have poor drainage capabilities in order to minimise further environmental degradation. Areas to the north-west of the Serpentine Townsite, including Lot 98 Gull Road, were thus not included in the current Farmlet Policy Area.

In the 2002 review of the Rural Strategy, the landowners made a submission requesting that other land that they own nearby, at Lot 835 Rowe Road, Serpentine, be included in the Farmlet Policy Area. This was supported by the Shire at the time but was not supported by the WAPC and so was not included in the final documentation. The WAPC noted in its assessment that the proposal to include Lot 835 Rowe Road within the Farmlet Policy Area represented an ad-hoc approach to planning as there was no vector of Farmlet development. The premise that the land, because of its present size and soil capability was not viable for farming and grazing did not justify that the land should instead be used for smaller unviable lots.

In 2012/2013, the Shire undertook a further review of the Rural Strategy. Shire planners did not include what are now Lots 98 and 99 Gull Road, however, a motion was moved at the Council meeting to include the lots and adjoining lots on Rowe Road and Gull Road (including Lot 835 Rowe Road referred to above) into the 'Rural Smallholding Area'.

The Rural Strategy was referred to the WAPC for consent to advertise. Under delegation, the Department of Planning, inter alia, required the proposal for the Gull/Rowe Road area to be removed from advertised documents. The Shire annotated the land to be removed as *"Changed at the direction of the Department of Planning"*. Following advertising and consideration of submissions, the Shire (Council) against the recommendation of its planners, re-included the Rowe Road/Gull Road area as 'Rural Smallholding Area' (4ha to 40ha with a 15ha average). This motion to include the area did not appear to be based on any cogent consideration of need, vector of development or land capability.

The 2012/2013 Rural Strategy review is with the WAPC for endorsement but is on hold pending the receipt and view of submissions on the Strategic Assessment for the Perth and Peel Regions (released as the **"Perth and Peel Green Growth Plan for 3.5million"** suite of documents which is currently being advertised until 8 April 2016).

SPP 2.5 (Land Use Planning in Rural Areas) and draft SPP 2.5 (Rural Planning Policy) and DC 3.4 (Subdivision of Rural Land).

The WAPC utilises the above policies in its consideration of proposals for the rezoning and subdivision of Rural Zoned Land.

The objectives of SPP 2.5 are:

- to protect rural land from incompatible uses
- require comprehensive planning for rural land

- protect existing and future primary production land
- promote regional development and economic opportunities
- promote sustainable settlement
- protect and improve environmental, landscape and cultural assets
- minimise land use conflict

DC 3.4 upholds the above policy position and prescribes circumstances where the WAPC can consider rural subdivision in exceptional circumstances. The landowners and their consultant (the applicant) argue that the subdivision of Lot 98 Gull Road qualifies under 'exceptional circumstances'.

#### History of Applications for the Subject Land

The landowners of Lot 98 Gull Road, Serpentine purchased the land when it was a single entity known as Lot 846 Rowe/Gull Road in 1988. Since 1998 the landowners have lodged five (5) applications for subdivision of the land. The decisions made in relation to these applications are relevant in the context of the current application.

WAPC 108711 (lodged 1998) - proposed subdivision of Lot 846 to create a total of four lots; being two lots of 8ha, one lot of 9ha and one lot of 12ha. The application was not supported by the Shire and was refused by the WAPC.

The landowner lodged an appeal with the Minister for Planning which was upheld in part and resulted in the creation of two lots; **Lot 501 (16ha) and Lot 502 (21ha)**. Having regard to advice contained in a report from the (then) Town Planning Appeal Committee (TPAC), the Minister, in issuing his decision, stated that he did not accept that the site should be subdivided into four lots. The TPAC report investigated the existence of the rural drain and considered that it did not represent a valid reason for subdivision. The TPAC report noted that there were numerous other properties which are similarly traversed by the drainage reserve and to allow subdivision on that basis would create an undesirable precedent. This rationale was also accepted by the Minister.

WAPC 122386 (lodged 2003) - proposed the subdivision of Lot 502 into one lot of 9ha and one lot of 12ha. Effectively this application sought to create in part what the WAPC had refused in 1998 (WAPC 108711) and the Minister had not accepted in his determination of the appeal. The application was not supported by the Shire and was refused by the WAPC.

The applicant appealed to the (then) Town Planning Appeal Tribunal (TPAT) on the basis that the rural drain was an impediment to the management of the land. The TPAT noted that while it could be viewed that the drain was a significant man-made feature affecting the land, its other significance was that at 6kms long and traversing many other properties it could lead to an expectation by other landowners that it could be used to facilitate subdivision. The TPAT gave considerable weight to the relevant policy considerations and was not prepared to accede to the subdivision of the land on the basis of undesirable precedent. The TPAT dismissed the appeal - WATPAT 251 [2004].

WAPC 145440 (lodged 2012) - proposed resubdivision ("realignment of boundaries") between Lots 501 and 502 to create one lot of 8ha and one lot of 30ha. The proposal

sought the creation of an 8ha lot in the same manner as was proposed in WAPC 108711 which was refused by the WAPC in 1998 and dismissed by the Minister on appeal.

The application was approved (under delegated authority) on the basis that the two existing lots were already below the 40ha recommended in the Shire's Rural Strategy and no additional lots were being created. As a result of the approval, Lot 98 (30.712ha) and Lot 99 (8ha) Gull Road were created. The most obvious implication of the proposed lot configuration was that it provided an opportunity for the landowner to contemplate further subdivision of the land as the proposed lot boundaries were similar to the original application lodged in 1998 under WAPC 108711.

WAPC 148622 (lodged 2013) - proposed the subdivision of Lot 98 Gull Road to create one lot of 17.8ha and one lot of 12.8ha. The purpose of the application would have been to achieve the landowners aim of separating the land by using the drain as the boundary. The application proposed lots that had been previously refused by the WAPC, dismissed by the Minister in 1998, and dismissed by TPAT in 2003.

The application was supported by the Shire but refused by the WAPC on 13 November 2013. No appeal was lodged.

WAPC 151587 (lodged 2014) - this application is identical to WAPC 148622. It was refused on 25 July 2014 under delegated authority. This is the application that is the subject of the request for reconsideration.

### Mundijong Drainage District

The broader Mundijong and Serpentine area is drained by a series of waterways comprising the Serpentine River and its tributaries, natural creek-lines and constructed drains. These water courses are defined by the Water Corporation as forming the Mundijong Drainage District. The rural drains are variously reflected on the land they traverse as Reserves, Unallocated Crown Land (UCL), easements, or an implied right of access for maintenance purposes.

The drain traversing Lot 98 Gull Road is U-shaped, 1.9ha in area and identified as UCL45. Ownership is registered to the State of WA on Certificate of Title LR 3010/177. It is managed by the Water Corporation.

The drain on Lot 98 Gull Road ranges from about 2.5 metres to 4 metres deep and 4 to 5 metres wide. Photographs of the drain taken from various locations in 2004, 2013 and 2015 are at **Attachments 3.1 to 3.5**. The drain is fenced to prevent stock from accessing it but some of the fencing is in poor condition. There are only limited points where the drain is not steep and is shallow enough for stock to cross it when dry.

**Attachment 3.6** shows the section of Gull Road that where stock would need to be ushered to get from one part of Lot 98 to the other.

## REQUEST FOR RECONSIDERATION (Attachment 4) AND DoP RESPONSE

### **Applicant - Ground 1**

The application was determined under delegated authority (refused). The landowner subsequently met with the WAPC Chairman, Director General Department of Planning and Mr Tony Simpson MLA Member for Darling Range to discuss the subdivision of the site. As a result the attendees at that meeting are considered to have a "*thorough knowledge of the situation and the site*".

### **DoP Response to Ground 1**

These are not planning grounds.

### **Applicant - Ground 2**

The determination (for refusal) did not adequately consider the unique contextual circumstances of the subject land. In particular the deep drain that dissects the property which is under the ownership and jurisdiction of the Water Corporation. The drain provides a physical barrier that cannot be traversed. DC 3.4 allows subdivision where the land accommodates a physical divide.

### **Applicant - Ground 3**

The Shire of Serpentine Jarrahdale Town Planning Scheme No 2. generally precludes rural subdivision at lot sizes less than 40 hectares. The use of the term generally implies that exceptions can be made. Clause 6.1 of DC 3.4 indicates that a significant physical divide constitutes an exceptional circumstance in rural subdivision.

### **DoP Response to Grounds 2 and 3**

The applicant contends that the subject land has unique/exceptional circumstances and that the decision to refuse the current application did not take into account the physical barrier presented by the drain. The applicant states that DC3.4 allows the WAPC to approve subdivision where there is a significant physical divide. Clause 6.1 of DC 3.4 states:

#### ***6.1 Significant physical divisions***

*The existing physical division of a lot by a significant natural or constructed feature may be formalised through subdivision. The physical division in itself does not warrant the creation of additional or smaller lots. A significant physical divide would include, but not be limited to, a controlled access highway or a river but would not generally include minor creeks that are commonly crossed for farm management purposes.*

The landowners purchased the subject land in 1988. Ten years later they submitted the first application to subdivide citing, amongst other things, the drain as making the land unmanageable as a farming entity. The landowners use the land for general rural/farm purposes and stock grazing. In order to fully utilise Lot 98 Gull Road, it is necessary to move stock onto Gull Road and across a bridge to access the Gull

Road section of the property. Gull Road is a dead-end road to the west so traffic is not an issue.

The premise that the land was unmanageable due to the presence of the drain was not accepted by the WAPC in 1998, 2003, 2013 or 2015, an expert member of the TPAC, the Minister for Planning or the TPAT. All authorities determined that the presence of the drain did not outweigh the relevant planning policy considerations with regard to precedent for subdivision or continued use of the land for rural and farm purposes. The present landowner grazes stock, a future landowner may grow a crop over the whole or part of Lot 98 Gull Road. It is illogical to suggest that such farming practices could not occur, or be managed, due to the presence of the drain.

The Water Corporation has permitted bridge crossings where there is no alternative road frontage to lots such as on Henderson Road. In March 2015, the Water Corporation advised the landowners that it was not prepared to offer any assistance with the construction of a new bridge within the property. The Water Corporation indicated that the cost would be substantial due to the depth and width of the drain. This could be interpreted to imply that the Water Corporation may allow a bridge if the landowner was prepared pay for the construction.

The subject land is not unique and the circumstances are not exceptional. The drain, and other connected parts of the drain, traverses at least twelve other lots mainly to the south of Rowe Road. The drain is only unique due to its shape on Lot 98. It could also be argued that the drain is a positive and valuable feature of the land due to its function in drawing excess water from the land (there are paddock drains leading into the drain) and its environmental (vegetation and wetland) attributes.

#### **Applicant - Ground 4**

SPP 2.5 (Land Use Planning in Rural Areas) indicates that subdivision should not occur in rural areas that involves the establishment of a new or intense settlement pattern for the area. The proposal will not result in such subdivision occurring given that it can only be approved in exceptional circumstances.

#### **DoP Response to Ground 4**

In 1989, subdivision of Lot 847 Rowe Road, Serpentine (adjoining the subject land) was approved for subdivision on appeal to the Minister for Planning. It resulted in the creation of six lots of approximately 8ha each. The appeal was allowed on compassionate grounds and the Minister stated that it was not to be construed as a precedent. Other appeals determined by the Minister in the same locality were considered on their merits. Most were dismissed based on rural policy considerations.

The creation of one additional lot in itself may not lead to the establishment of a new settlement pattern but the precedent that it sets could.



### **Applicant - Ground 5**

The refusal decision indicated that the subdivision would result in an undesirable precedent in the locality. Given the extenuating circumstances of the subject land, it would not result in an undesirable precedent.

### **DoP Response to Ground 5**

On the contrary, the subdivision would result in a precedent as has already been expressed by the WAPC, the Minister and the TPAT in the consideration of previous applications for the subdivision of the land. Pursuant to DC 3.4, the rural drain does not qualify as a significant impediment to the management of the land.

The re-subdivision of Lots 501 and 502 (approved ostensibly as no additional lots were being created) resulted in the creation of an 8ha lot (Lot 99 Rowe Road). The creation of that lot should not now set the precedent for the further subdivision of the subject land or any other adjoining or nearby lots which are not designated for closer development. The subject land is in the Rural Policy Area of the Rural Strategy where a 40ha lot size exists as a disincentive to further subdivision. This principle has been successfully defended in the TPAT and SAT.

### **Applicant - Ground 6**

The Shire of Serpentine Jarrahdale recommended that the application be approved.

### **DoP Response to Ground 6**

Determination of subdivision rests with the WAPC, not with the Shire. The Shire has previously recommended refusal to subdivision of the land up until the application which was lodged in 2012 (WAPC 145440). The Shire's recommendation is inconsistent with the current planning framework and the existing (2002) Rural Strategy. The Shire continues to recommend refusal to other applications for subdivision in the Rural Policy Area that do not comply with the recommended 40ha lot size.

### **Draft Perth and Peel@3.5million and South Metropolitan Peel Sub-regional Planning Framework**

In May 2015 the Government released the above documents which deal with not only planning for future urban areas but protecting the rural and environmental attributes of the Perth and Peel region.

Section 7.7 of Perth and Peel@3.5million, states, inter alia, :

- *"a significant amount of suitable agricultural land has already been lost"*
- *"land for other agricultural purposes - agistment, cattle, poultry - within ready access of the metropolitan area - is also coming under pressure"*
- *"Retaining food production areas close to population centres helps to reduce the costs of transport and labour and ensures a continuous fresh supply"*
- *"within the South Metropolitan Peel sub-region, **approximately 5,500 hectares of land is available for rural-residential subdivision and development. (bold emphasis added)**"*



- *"the key priority will be to preserve rural land in close proximity to population centres with rural living proposals to be considered by exception."*

### Strategic Assessment for the Perth and Peel Regions

In June 2014, the WAPC wrote to all local governments impacted by Perth and Peel@3.5 million and the draft Sub-regional Planning Frameworks. The WAPC stated;

*"... to ensure that major environmental issues associated with proposed rural residential development are adequately considered, the WAPC resolved to uphold the policy position outlined within State Planning Policy 2.5 (SPP 2.5) that opportunities for rural living within the metropolitan region may remain static or even decrease and that rural proposals will be considered by exception subject to the requirements of the policy being met. Notwithstanding the exceptions provided within SPP2.5, the WAPC will not support local planning strategies/rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised..."*

The Perth and Peel Green Growth *Draft Action Plan B: Rural Residential* reiterates the key principle that the provision (creation) of rural residential allotments should be by exception and sets out the criteria contained in SPP 2.5 which underpin the identification of rural residential land. There has been no information submitted which demonstrates that the proposed subdivision (which creates rural residential lots) complies with the criteria.

In addition, the site has been examined (desktop) by the SAPPR project team. Preliminary mapping indicates that the eastern half of Lot 98 Gull Road lies within the Perth Biodiversity Corridor. Subdivision of the land would create the potential for an additional dwelling, outbuildings etc (assuming dwellings were built on both lots proposed by the subdivision) that could impact on environmental attributes.

### **Additional Comments**

Since the first application for subdivision in 1998, the WAPC has consistently applied its rural policies to the assessment of the subdivision applications for the landowners' properties, including the nearby Lot 835 Rowe Road. This application of policy has been upheld by both the Minister for Planning and the TPAT in their review of WAPC decisions.

The assessment of the 1994 Rural Strategy (and subsequent WAPC endorsement) did not identify this area of Serpentine as being suitable for a closer subdivision pattern. The landowners submitted the first application to subdivide the land into four lots in 1998, four years after the release of the 1994 Rural Strategy, when it clearly did not comply with the planning provisions at the time. The landowners seek to subdivide Lot 98 Gull Road because they consider that it is only marginally viable for stock grazing, it has a rural drain traversing it and because some smaller lots (8ha - 10ha) exist in the locality.

While the Shire (Council) resolved to include a precinct in the Gull Road/Rowe Road area for Rural Smallholdings in its 2012/2013 review of the Rural Strategy, this was against the advice of its planning staff, contrary to State planning objectives for Rural land and without any robust assessment of the capability of the land to support this type of land use, or considerations as to the servicing of future resident and community needs.

Approval to the application would likely lead to an application to further subdivide the proposed 17.86ha lot into two lots using its narrow point as a convenient boundary. The landowners had already signalled this intention by virtue of the application for subdivision in 1998. Contrary to proper planning, a small-holding/farmlet (rural residential) "precinct" would then be created by stealth.

The rural drain does pose a management issue for the transfer of stock (flock animals) from one side of the drain on Lot 98 Gull Road to the other. However, this is not insurmountable and could be managed with better maintenance of the fencing on Gull Road (on and across the bridge), temporary installation of barriers at the time stock are being moved to prevent them escaping into the drain reserve and sufficient people to move the stock. The transfer of horses or other animals that can be led would not pose such a problem.

#### Case for support to the subdivision of the land

The application for subdivision would create the 12.8ha lot which would have separate road frontage, be cleanly within its own boundary and separated from adjoining land by the reserve around the rural drain. Both lots can be serviced with power. A potable water supply would need to be installed for domestic and possibly, fire-fighting purposes. Both lots could be used for rural lifestyle purposes, stock/horse agistment, intensive agriculture or horticulture. The lots would be slightly larger than some other lots in the locality. The lots may be "affordable" compared with the market value of a 30.7ha lot.

#### Precedent for other subdivision if the drain is accepted as a reason for subdivision

The following lots are also traversed by the drain (some formalised by a Reserve) and have dual road frontage which would make them a proposition for subdivision:-

- Lot 843 Rowe Road;
- Lot 351 Rowe Road;
- Lot 506 and Lot 368 both on the corner of Henderson and Lowlands Roads;
- Lot 362 Henderson Road;
- Lot 606 corner Wattle Road and Walker Road; and
- Lot 830 Utley Road.

#### **CONCLUSION:**

The landowners have continued to submit applications for the subdivision of their landholding located between Gull Road and Rowe Road, Serpentine despite non-compliance with the planning framework. Having owned it for 10 years and utilised it for stock grazing, the landowners then decided that the drain, which was a known constraint when they purchased the property in 1988, posed a management problem.

In 1998, the landowners made an application to subdivide the land into four lots which was far beyond attempting to deal with the issue of the drain.

If the drain is accepted as a significant feature on its own that warrants subdivision, then it would be difficult to refuse other applications that may be submitted arguing the same rationale. The creation of additional lots (at 12.84ha and a 17.86ha) are contrary to the Metropolitan planning framework, the rural planning framework and the WAPC directive to local governments not to identify rural land for rural living (and the like) purposes.

It is recommended that the application for reconsideration be refused, the decision of 25 July 2015 affirmed (as modified) and the applicant advised accordingly.

## ITEM NO: 9.9

### **Request for Reconsideration of a Refusal to an Application for the Survey-strata subdivision of Lot 124 Hannaby Street, Dianella to Create Two Residential Lots**

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer - Metropolitan Planning Central
AUTHORISING OFFICER:	Director - Metropolitan Planning Central
AGENDA PART:	
FILE NO:	1130-15
DATE:	13 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refuse
ATTACHMENT(S):	1. Subdivision Plan 2. TPS Zoning and Location Plan 3. Conditions without prejudice
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Stirling
LOCAL SCHEME ZONING:	Residential R20
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Perth Metro
RECEIPT DATE:	11 December 2015 (Form 3A - Reconsideration)
PROCESS DAYS:	
APPLICATION TYPE:	Survey Strata
CADASTRAL REFERENCE:	Lot 124 Hannaby Street, Dianella

#### **RECOMMENDATION:**

***That the Statutory Planning Committee resolves to uphold its decision to refuse the survey strata application to subdivide Lot 124 Hannaby Street, Daniella for the following reasons.***

- 1. The proposed survey-strata subdivision does not comply with the requirements of the Western Australian Planning Commission Development Control Policies DC 1.3 (Strata Titles) and DC 2.2 (Residential Subdivision), the requirements of the Residential Design Codes (2013) and the City of Stirling Local Planning Scheme No. 3 by reason that the proposed lot does not meet the average site area***

***requirements for the R20 density code as specified in Table 1 of the Residential Design Codes.***

- 2. Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality, which would undermine the objectives and requirements of City of Stirling Local Planning Scheme No. 3 for lots subject to the same density coding***

## **SUMMARY:**

The key points relating to this report are as follows:

- The application seeks approval to subdivide a 830m<sup>2</sup> lot to create two side by side lots with areas of 415m<sup>2</sup> each, and lot frontages of 10m;
- The application seeks approval under the interim practice;
- The land is coded R20 under the City of Stirling's Town Planning Scheme No.3 3 and therefore requires an average of 450m<sup>2</sup> in order to meet the lots size requirements stipulated in the R-Codes 2013;
- The application seeks a variation to average lots sizes requirements in excess of that permitted under Clause 5.1.1 of the R-Codes (7.78% variation);
- The application was originally refused on the 24 November 2015 with a reconsideration request being received on the 11 December 2015.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

**Legislation** Subdivision / Development Approval / Reconsiderations - Part 10 of the P&D Act 2005

Section:

### **Strategic Plan**

Objectives: Strategic Goal 2: Planning  
Performance Outcomes: Effective Delivery of Integrated Plans  
Strategic Imperatives: Implement State and Regional Planning priorities

### **Policy**

Number and / or Name: State Planning Policy 3.1 Residential Design Codes  
WAPC Policy 2.2 Residential Subdivision

## **INTRODUCTION**

On 24 November 2015, the Western Australian Planning Commission (WAPC) refused a subdivision application proposing the creation of two lots at Lot 124 Hannaby Street, Dianella. The reasons for refusal were as follows:

- 1. The proposed survey-strata subdivision does not comply with the requirements of the Western Australian Planning Commission Development Control Policies DC 1.3 (Strata Titles) and DC 2.2 (Residential Subdivision), the requirements of the Residential Design Codes (2013) and the City of Stirling Local Planning Scheme No. 3 by reason that the proposed lot does not meet the average site area requirements for the R20 density code as specified in Table 1 of the Residential Design Codes.***

2. *Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality, which would undermine the objectives and requirements of City of Stirling Local Planning Scheme No. 3 for lots subject to the same density coding.*

The application sought assessment under the WAPC's Interim Policy Position on Average Lot Sizes (the Interim Policy Position), acknowledging that the application did not comply with the WAPC's usual average lot size requirement. The WAPC decided that exercising the discretion provided by the Interim Policy Position to approve the application would not be appropriate in this case and issued a refusal.

On 14 December 2015, the applicant submitted a Request for Reconsideration of the refusal, providing a number of reasons to justify the reversal of the decision. These reasons are discussed elsewhere in this report.

## **CONSULTATION**

No consultation has been undertaken in relation to this Request for Reconsideration. The issue of whether the application should be approved relates purely to the Interim Policy Position, which is a WAPC initiative.

In relation to the original subdivision application, the City of Stirling advised that it objected to the proposal, whilst the Water Corporation and Western Power raised no objection, subject to conditions.

## **PLANNING ASSESSMENT**

### Residential Design Codes

The subject site is coded R20. This necessitates a minimum lot size of 350m<sup>2</sup>, an average lot size of 450m<sup>2</sup>, and a minimum frontage of 10 metres.

This proposal achieves a compliant minimum lot size (415m<sup>2</sup>) and frontage (10.05 metres), but does not achieve a compliant average lot size (415m<sup>2</sup>). The proposed average lot size represents a 7.78% variation from the requirement.

### WAPC's Interim Policy Position on Average Lot Sizes

#### *December 2014 resolution*

In December 2014, the WAPC's Statutory Planning Committee (SPC) resolved to adopt an Interim Policy Position permitting variations to Clause 3.2.3 of Development Control Policy 2.2 - *Residential Subdivision* (which relates to variations to the minimum and average lot sizes specified in the R-Codes) under delegated authority when:

- a) The application is for land within the Metropolitan Central area; and
- b) The proposed lots meet the minimum lot area requirements as prescribed in Table 1 of the R-Codes, without variation; and
- c) The proposal is for a corner site, a side-by-side lot configuration or for land that has dual frontage; and
- d) The proposal is not for a battleaxe configuration; and
- e) The proposed lots are of a regular shape; and
- f) The subdivision site is fully serviced; and

- g) The proposed lots meet the minimum frontage as prescribed in Table 1 of the R-Codes.

This application meets all of the above criteria.

However, even where a proposal meets these criteria, it is expected that the approval will not result in lots that would facilitate development that would be out of keeping with the character of the local area or set a new precedent for widespread subdivision using the same criteria in the local area.

Approval of this application would set a new precedent for widespread subdivision using the same criteria in the local area, which in turn would facilitate development that would be out of keeping with the character of the local area, and in a sense providing an unintended up coding of the area. Of the 578 single-frontage lots in the vicinity of the subject site (covering an area generally bounded by Molloy Street, Eastland Street, Oliver Street, The Strand, Hustler Street, Booker Street, Otley Street, Lynmouth Road, Dallwin Street, Belmaurice Street, Malba Crescent, Elabana Crescent, April Road, Cascade Avenue, Cresswell Road, Walney Way, Walney Avenue and Hayes Avenue), only 42 (7.27%) currently have subdivision potential.

The Interim Policy Position as it relates to single-frontage lots gives subdivision potential to an additional 253 lots. This would take the total number of lots with subdivision potential to 295, or 51% of the 578 lots in the study area.

The subdivision of all those lots via the Interim Policy Position would undermine the allocated density code. This would be contrary to the intent of the Interim Policy Position. As such, it is considered that the approval of this application using the provisions of the Interim Policy Position would set an undesirable precedent.

*December 2015 resolution*

The WAPC refused the subdivision application on 19 November 2015 for the reason that it did not comply with the requirements of the Interim Policy Position as adopted in December 2014. Since the refusal was issued, the WAPC has adopted a modified version of the Interim Policy Position. This was adopted in December 2015 and will, like its predecessor, be trialled for the following 12 months.

The seven criteria listed above remain unchanged, but additional criteria have been added for side-by-side subdivision. Of relevance to this application is the criterion requiring the subject site to be within the walkable catchment of an activity centre, using the definitions in the WAPC's State Planning Policy No. 4.2 - *Activity Centres for Perth and Peel* (SPP 4.2).

The subject site is 1.18km from the District Centre at Dianella and 1.68km from the Secondary Centre at Mirrabooka. The walkable catchment specified in SPP 4.2 for both District Centres and Secondary Centres is 200 metres. As such, the proposed subdivision would not qualify for assessment under the current version of the Interim Policy Position.

#### Proponent's Justification

The applicant argues that:



- Approval of the application would not set an undesirable precedent because the Interim Policy Position has an *"imminent expiry date"*.
- The application complies with the relevant criteria (listed elsewhere in this report) of the version of the Interim Policy Position under which it was assessed, and that there is therefore no reason for approval not to be forthcoming. The applicant notes that *"many similar applications"* have been approved under the Interim Policy Position and that the provisions of the same *"should be applied without prejudice."*
- The application has planning merit in that the subject site is located *"less than 3km [from] a local shopping precinct"* and close to public transportation (in the form of *"high frequency bus routes on Morley Drive"*), making it an ideal opportunity for urban infill, and greater housing choice and diversity. These outcomes are cited as being consistent with the *"general intent of the local planning scheme"* and the *"dwelling targets of the Central Metropolitan Sub-regional Strategy and Directions 2031"*.

The following comments are made on the above points:

- At the time the Request for Reconsideration was prepared, the Interim Policy Position had not yet been extended beyond its initial December 2015 expiry date. As noted above, the Interim Policy Position has now been extended to December 2016. It is therefore considered that there is potential for approval of this application to set a precedent.
- It is acknowledged that the application complies with the relevant criteria of the version of the Interim Policy Position under which it was assessed. However, as discussed elsewhere in this report, compliance with the relevant criteria does not, in itself, justify approval of the application. Approval of this application could set a precedent for widespread subdivision in the local area that would undermine the allocated density code.
- The Interim Policy Position was not introduced as a means of encouraging urban infill or undermines the existing R-Code density across entire suburbs. It simply gives the WAPC the ability to approve subdivision applications proposing an average lot size that varies from the usual requirement by more than 5% under delegated authority, rather than the SPC having to do so. This streamlines the WAPC's decision-making process. Urban infill is a strategic priority of the WAPC, but housing targets can and will be met through other means incentivised in local planning schemes. The subject land is located in an area which is characterised by lots of a similar size and shape, and may be replicated further on a large scale, which will have an adverse effect on the allocated density for the area. The WAPC does not support the erosion of the

density code by such a large variation, without the density being adjusted through the orderly and proper planning process.

In relation to the applicant's comments about the locational attributes of the subject site, it is noted that those attributes are not satisfactory for the purposes of the contemporary December 2015 version of the Interim Policy Position.

In light of these points, it is not considered appropriate for the application to be approved.

## **CONCLUSION**

Given that the applicant has not raised any compelling reasons for the decision to refuse this application to be reconsidered, it is recommended that the original decision be upheld and the application refused, for the same reasons given in the first instance.

Should the SPC be of a mind to reverse the original decision to refuse the application and grant approval, it is recommended that that approval be subject to the conditions and advice contained in the attached schedule.

## ITEM NO: 9.10

### Shire of Murray – 2014 Murray River Country Estate Structure Plan

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager - Peel
AUTHORISING OFFICER:	Planning Director - Peel
AGENDA PART:	G
FILE NO:	SPN/0228/2
DATE:	19 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refuse 2. Advise
ATTACHMENT(S):	1. Location Plan 2. 1998 RS ODP 3. 2009 MRCE ODP 4. Proposed Structure Plan 5. Summary of Submissions
REGION SCHEME ZONING:	Urban and Private Recreation
LOCAL GOVERNMENT:	Shire of Murray
LOCAL SCHEME ZONING:	Special Development
LGA RECOMMENDATION(S):	Adopt with modifications
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	6 March 2015
PROCESS DAYS:	113 (from 19/10/15 to 9/2/16)
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 9010 & 9510 Sutton Street, Pinjarra

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. refuse the Shire of Murray - 2014 Murray River Country Estate Structure Plan as insufficient information has been provided to enable a proper evaluation of the proposal in terms of environmental considerations; and***
- 2. advise the Shire of Murray that any subsequent structure plan prepared for this site will need to address the above, as well as:***
  - a) the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015;***
  - b) the WAPC's State Planning Policy 3.7 - Planning for Bushfire Prone Areas; and***

### **c) the WAPC's Structure Plan Framework.**

#### **SUMMARY:**

- The Shire of Murray (the Shire) seeks the Western Australian Planning Commission (WAPC) endorsement of the 2014 Murray River Country Estate Outline Development Plan (proposed structure plan).
- The proposed structure plan aims to consolidate two existing structure plans for the site.
- The proposed structure plan is being presented to Committee for determination as there is no delegated authority to refuse a structure plan.
- It is recommended that the structure plan be refused primarily as the proponent has not provided sufficient information to enable a proper examination of the environmental impacts associated with the proposed structure plan.
- Refusal of the proposed structure plan will result in the two existing structure plans that cover different areas of the Murray River Country Estate to remain as the approved plans for the estate. Limited subdivision and development of some areas of the estate could be progressed under the existing approved structure plans.

#### **BACKGROUND:**

Two structure plans, previously known as Outline Development Plans (ODPs), have been approved for the Murray River Country Estate (MRCE) which was previously known as the Ravenswood Sanctuary (**Attachment 1** - Location Plan).

In March 1996, the Environmental Protection Authority (EPA) , pursuant to section 38 of the *Environmental Protection Act 1986* (EP Act), determined to set the level of assessment for the 'Proposed Ravenswood Sanctuary Project - golf resort and residential development' at 'Informal Review with Public Advice'. The EPA's advice related to a protected wetland on the site, the Peel Harvey Catchment, stormwater disposal, the Murray River, potential noise impacts from a nearby raceway (which has since closed) and potential impacts arising from the golf course.

In September 1996, Amendment 72 to the Shire's current local planning scheme was gazetted, which reclassified the site from 'Rural' zone to 'Special Development' zone and 'Public Recreation/Conservation' reserve.

In April 1998 the Ravenswood Sanctuary ODP (RS ODP) was approved by the WAPC (**Attachment 2** - RS ODP). Subsequent modifications were approved in June 1999 and June 2013.

In November 2009 the MRCE ODP was approved by the Statutory Planning Committee, subject to modifications which have not yet been effected (**Attachment 3** - 2009 MRCE ODP).

Consolidation of the RS ODP and MRCE ODP was led and initiated by the Department of Planning in 2014 in order to provide clarity with respect to interpretation and administration of the structure plan requirements for the site.

The proposed consolidated structure plan and text (**Attachment 4** - Proposed Structure Plan) was approved by the Council on 4 March 2015, subject to modifications. Council's modifications have not yet been effected.

On 30 March 2015, a minor modification was approved to a portion of the 2009 MRCE ODP to amend the R-Codes associated with a subdivision application. This modification has been effected.

In May 2015 the Office of the Environmental Protection Authority (OEPA) met with the proponent, the local government and Department of Planning. At that meeting, the proponent agreed to submit various documents to the OEPA to assist with its analysis of the proposed structure plan. However, the information has not been provided to date. In November 2015 the proponent advised that, for particular reasons, detailed analysis of the environmental values was likely to be delayed for an undetermined time.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

### **Legislation**

*Planning and Development Act 2005*  
*Shire of Murray Town Planning Scheme No.4*  
*Planning and Development (Local Planning Schemes) Regulations 2015*

Section: Schedule 2, Part 4, clauses 14-29

### **Strategic Plan**

Objectives: Manage Growth

Performance Outcomes: PO2 Sufficient urban, commercial and industrial land supply opportunities

Strategic Imperatives: 1.1 Increase housing densities, diversity and affordability

### **Policy**

Number and / or Name: Directions 2031  
Draft South Metropolitan Peel Sub-regional Planning Framework  
SPP 3 - Urban Growth and Settlement  
SPP 3.7 - Planning for Bushfire Prone Areas  
Liveable Neighbourhoods

## **DETAILS:**

The proposed structure plan comprises a plan (**Attachment 4**) and supporting statutory provisions. Apart from consolidating two ODPs, the proposal seeks to:

1. incorporate and update notations from the two current ODPs into a statutory provisions text, where appropriate;
2. incorporate up to date floodway mapping and adjustment of the alignment of abutting sites including Public Open Space (POS) and the K-12 site;
3. reflect endorsed and proposed subdivisions;
4. depict land ceded to the Crown; and
5. adjust proposed POS across the site.

Following advertisement and assessment of the submissions, the Shire seeks additional modifications, which have not been effected, including:

1. a provision being added to demonstrate sufficient land is available to accommodate a primary school, active playing field and associated infrastructure;
2. the Urban Water Management Plan being updated to demonstrate adequate management of stormwater in the vicinity of the K-12 school site;
3. a provision being added to clarify that an extension of the golf course will be subject to it being demonstrated, via a Nutrient and Irrigation Management Plan, that the golf course can be adequately managed; and
4. correcting the legend and colours on the proposed structure plan.

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The proponent may make an application to the State Administrative Tribunal with respect to a decision to refuse the proposed structure plan. The WAPC would have to respond to such an appeal.

## **CONSULTATION:**

The proposed structure plan was released for public comment during November and December 2014. Seven submissions were received, including one from the proponent.

The main issues raised relate to environmental matters, traffic management, road alignment, updating of management plans, stormwater requirements and size of school. (**Attachment 5** - Summary of Submissions).

Issue: The Department of Parks and Wildlife (DPaW) advise that the site contains conservation values including regionally significant natural areas and conservation category wetlands which are impacted by the subdivision design. DPaW suggests that the Shire may wish to consult the OEPA to confirm if the original Amendment 72 was considered by the EPA and to determine the EPA's position on the development of remnant vegetation and areas mapped as resource enhancement wetlands.

Shire response: EPA referral is not considered necessary at this time as the proposed ODP purpose is to consolidate approved ODPs. The Shire acknowledges proposed Stage 8 encroaches into a resource enhancement wetland, but this area was configured prior to regionally significant natural area policy approval.

DoP comment: In August 2012, the OEPA advised that a proposal to develop the land was referred to the EPA under Section 38 of the EP Act, whereas Amendment 72 was not referred to the EPA as it predated the EP Act being amended to allow the assessment of planning schemes and amendments. The lack of sufficient information regarding environmental considerations prevents appropriate analysis of the structure plan and supports the recommendation that the proposed structure plan be refused.

Issue: The Department of Education advised the proposed primary school would require the entire 3.5ha as a building footprint due to the projected lot yields requiring a larger than normal student base. The associated oval should be located entirely within POS as a shared facility.

Shire response: Recommend a new provision requiring demonstration of sufficient land to accommodate the primary school, senior active playing field and associated infrastructure.

DoP comment: The proposed school site and oval have now been identified as Swan Bioplan. Insufficient information has been provided regarding the environmental values of the site, as discussed within this report. The lack of this information creates uncertainty regarding the suitability of the primary school site for its intended purpose, and supports the recommendation that the proposed structure plan be refused.

Issue: Main Roads advised intersections with Pinjarra Road will require realignment consistent with an abutting approved ODP for Lot 1 & 2 Pinjarra Road and Lot 602 Beacham Road and that the two additional access roads are not supported.

Shire response: Supports the proponents comments and recommends no modification to the proposed ODP as the affected area is subject to a separate ODP for the Village Centre Precinct.

DoP comment: Generally agree with the Shire's response although refusal of the structure plan is recommended, as discussed later in this report.

Issue: Department of Water (DoW) advise a Nutrient Management Plan (NMP) and Foreshore Management Plan (FMP) may be required for the golf course as this area was not included in the Local Water Management Plan of the 2009 MRCE ODP.

Shire response: The 1998 RS ODP and 2009 MRCE ODP are to be consolidated with the management plans applicable for each area to remain. Recommends a provision demonstrating a NMP be consistent with relevant environmental and water management plans for any extension of the golf course.

DoP comment: A Nutrient and Irrigation Management Plan was prepared for the RS ODP but may require updating to reflect contemporary practices. No immediate action arises in relation to nutrient management or FMP considerations if the structure plan is refused, as recommended.

Issue: The DoW advise that POS previously abutting K-12 school on the 2009 MRCE ODP was to contain detention basins, as required by the MRCE Local Water Management Strategy 2009, and recommends the proposed structure plan be revised to identify how stormwater is to be managed.

Shire response: Recommend a provision requiring the LWMP demonstrate where stormwater runoff for the two former POS sites is to be conveyed and detained.

DoP comment: Refusal of the proposed structure plan, as recommended, would result in the detention basins be retained on the existing 2009 MRCE ODP.

## **OFFICER'S COMMENTS:**

### Environmental Considerations

Vegetation surveys and analysis prepared for the 2009 MRCE ODP found that the vegetation in proximity to the proposed school site and oval to be in good or degraded condition generally. However, subsequent to the 2009 MRCE ODP being approved (subject to modification), portions of the site were identified as Peel Regionally Significant Natural Areas in *Environmental Protection Bulletin: Swan Bioplan - Peel Regionally Significant Natural Areas* (Swan Bioplan). These areas overlap, in part, wetlands reclassified as resource enhancement wetlands.



It is understood that the OEPA wishes to compare any new structure plan proposal for this site against its advice of 5 March 1996, with particular regard to water management, nutrient management for the golf course and relevant environmental policies. In May 2015, the proponent agreed to provide a package of information to the OEPA to enable it to evaluate the environmental implications of the proposed structure plan. However the proponent subsequently advised that further detailed work is required prior to submitting this information to the OEPA.

It is now understood that the information requested by the OEPA is not being actively pursued by the proponent at this time. It is considered appropriate to refuse the proposed structure plan as the lack of sufficient information prevents a proper analysis of the structure plan and the proponent has not indicated any specific timeframe as to when the required information will be provided to OEPA for its assessment.

#### Other Considerations:

Subsequent to the proposed consolidated structure plan being approved by the Council:

- a) the *Planning and Development (Local Planning Schemes) Regulations 2015* has come into effect;
- b) portions of the site have been mapped as bushfire prone; and
- c) the WAPC's latest Structure Plan Framework has been released.

These matters will need to be addressed if a new structure plan is prepared for the subject land.

#### Conclusion:

In consideration of outstanding advice on environmental matters, it would not be appropriate to approve the proposed consolidated structure plan in its current form.

Refusal of the structure plan would mean that the RS ODP and 2009 MRCE ODP will continue to operate as separate approved structure plans for the estate.

## ITEM NO: 9.11

### Subdivision to Create Two Residential Lots in R15/R20 Area – Lot 3 (No. 4) Smith Street Claremont

**COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer, Metropolitan Planning Central
AUTHORISING OFFICER:	Director, Metropolitan Planning Central
AGENDA PART:	Part G
FILE NO:	152828
DATE:	20 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve
ATTACHMENT(S):	1. Subdivision Plan 2. Location and Zoning Plan 3. Street view
REGION SCHEME ZONING:	MRS Urban
LOCAL GOVERNMENT:	Town of Claremont
LOCAL SCHEME ZONING:	Residential R15/20
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Perth Metro Central
RECEIPT DATE:	3 November 2015
PROCESS DAYS:	78
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 3 Smith Street, Claremont

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to approve the application for subdivision of Lot 3 Smith Street, Claremont as shown on the plan date-stamped 3 November 2015. This decision is valid for three years subject to the following condition(s) and advice:***

#### CONDITIONS

- 1. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)***
- 2. The land being filled, stabilised, drained and/or graded as required to ensure that***

- a) *lots can accommodate their intended development; and*
  - b) *finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and*
  - c) *stormwater is contained on-site, or appropriately treated and connected to the local drainage system*  
(Local Government)
3. *Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)*
  4. *Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)*
  5. *The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body. (Water Corporation)*
  6. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power).*

**ADVICE:**

1. *In regard to Condition 1, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.*
2. *In regard to Conditions 3 and 4, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*
3. *In regard to Condition 6, Western Power provides only one underground point of electricity supply per freehold lot.*
4. *The applicant/owner is advised that Clause 36 (4) of the Town of Claremont Town Planning Scheme No. 3 may preclude the erection of a double garage on both of these lots. The applicant/owner should investigate any potential implications, prior to effecting the subdivision.*

## SUMMARY:

It is proposed to subdivide a residential lot coded R15/20 into two 441m<sup>2</sup> lots located side-by-side, each with frontages of 10.96m which:

- do not meet the minimum or average site area requirements for the lower R15 code;
- do not qualify for the higher R20 code under the local planning scheme; and
- include a 2% variation to the required average site area of the higher R20 code.

Despite this non-compliance, the proposed subdivision is consistent with other lots fronting the street which have a higher R-Code of R25. The R15/20 coding on the subject site appears an anomaly. These circumstances are unique to the subject site in the locality (an adjoining lot with similar circumstances was subdivided in 2011). Approval is therefore recommended.

## LEGISLATION / STRATEGIC PLAN / POLICY:

### Legislation

Section:

Planning and Development Act 2005

Subdivision - Part 10 S 138

### Strategic Plan

Objectives:

Planning

Performance Outcomes:

Effective Delivery of Integrated Plans

Strategic Imperatives:

Implement State and Regional Planning priorities

### Policy

Number and / or Name:

Development Control Policy 2.2 - Residential Subdivision

SPP 3.1 - Residential Design Codes

## INTRODUCTION:

The application proposes to subdivide an existing 882m<sup>2</sup> lot into two freehold lots located side-by-side, each with a land area of 441m<sup>2</sup> and frontages of 10.96m (**Attachment 1 - Subdivision Plan**). The subject site is currently occupied by a single house and outbuilding.

The subject land is zoned '*Urban*' under the Metropolitan Region Scheme (MRS) and '*Residential*' with a density code of R15/R20 under the Town of Claremont Town Planning Scheme No. 3 (TPS3) (**Attachment 2 - Location and Zoning Plan**)

The land area and dimensions of the proposed lots are consistent with other lots that front Smith Street. These include an original lot that abutted the subject site on its eastern boundary also coded R15/20 and approved for subdivision in 2011 (due to existing built strata) and all other lots fronting Smith Street that have a higher code of R25.

## CONSULTATION:

The Water Corporation and Western Power were consulted and recommend approval subject to conditions.

The Town of Claremont was consulted and is unable to support the application as it does not meet the minimum area and frontage requirements for subdivision under R15. However, the Town acknowledges that the Commission may be inclined to support the application (in which case conditions are recommended) and advises that:

*"the proposal is in keeping with the street where most other properties are comparable in size and frontage, with these other properties having a density code of R25. The existing single dwelling on this 880sqm lot is therefore an anomaly in the street and its subdivision would not have a negative impact. As far as can be ascertained, the zoning within the street reflects the lot sizes at the time it was applied and there is no apparent planning reason for the subject site to have a lower density code than the remainder of Smith Street."*

All recommended conditions have been assessed and where considered fair, reasonable and relevant, they should be imposed.

## PLANNING FRAMEWORK:

The R-Codes are read into the City of Stirling TPS3 and provide the relevant scheme provisions. They do not allow decision-makers to vary the minimum and average site area per dwellings under Table 1 of the R-Codes (unless otherwise provided in a scheme) except by up to 5%.

Clause 53 of Town of Claremont TPS3 only allows development at the higher density code of R20 where an existing dwelling listed on the Council heritage register is proposed to be retained and if this is not the case, the lower density code applies, in this case R15.

Clause 3.2.3 of Western Australian Planning Commission (WAPC) Development Control Policy 2.2 (DC 2.2) allows a 5% variation to the average site area (as per the R-Codes) where the minimum is achieved if the *applicant has provided information that demonstrates the variation will have a beneficial outcome for the community, or the WAPC forms the opinion that it will have a beneficial outcome for the community.*

Section 138 of the Planning and Development Act (the Planning Act) allows the WAPC to approve a subdivision that conflicts with the provisions of a local planning scheme in limited circumstances including where the conflict is of a minor nature.

The SPC resolved (in December 2014) to adopt an interim policy position that permits variations to DC 2.2, clause 3.2.3 for subdivision and survey strata applications in the Metropolitan Planning Central area subject to a number of criteria and to delegate to nominated officers power to approve such applications. In December 2015, the SPC resolved to continue the delegation subject to additional criteria. While this practice is not directly applicable to the proposal, it illustrates

situations where the WAPC has been prepared to approve subdivisions with minor conflict with local planning schemes/R-Codes.

In addition, the State Administrative Tribunal (SAT) has allowed subdivision proposals which have varied site area requirements beyond the 5% provided by the R-Codes or DC 2.2; for example, **Landpark Holdings PTY Ltd v WAPC (2007) WASAT 130** and **Chris Perrot of CPP Pty Ltd v WAPC (2006) WASAT 260**. In fact in the case of **Clive Elliot Jennings and Co Pty Ltd v WAPC (2002) 122 LGERA 433**, the SAT member held that while DC 2.2 *"guides the exercise of planning discretion it does not replace the discretions in the sense that it is to be inflexibly applied.*

*"...the relevant consideration in many applications will be why the 'policy' should not be applied; why the planning principles that find expression in the 'policy' are not relevant to the particular application"*

#### **OFFICER'S COMMENTS:**

The proposal does not meet the minimum lot size (580m<sup>2</sup> required, 441m<sup>2</sup> provided) and average lot size (666m<sup>2</sup> required, 441m<sup>2</sup> provided) requirements of the lower R15 code under the R-Codes.

It would comply with the minimum lot size (350m<sup>2</sup> required, 441m<sup>2</sup> provided) requirements for the R20 but presents a 2% variation (450m<sup>2</sup> required, 441m<sup>2</sup> provided) to the average lot size requirement.

The land area and dimensions of the proposed lots are however consistent with all the other lots that front Smith Street which is characterised by small cottage lots as illustrated by **Attachment 3 - Streetscape**.

Two lots on the east side of the subject site, Lots 888 and 889 (No 6-8) Smith Street are also coded R15/20 but were approved as two separate lots in 2011 with lot sizes and dimensions similar to the subject site, on the basis of the development pattern of the street and as the lots were (and still are) occupied by two dwellings with an approved built strata.

All other lots fronting Smith Street have a higher code of R25 and have lot sizes and dimensions similar to the subject site.

The other lots codes R15/20 front Walter Street and are large lots occupied by large homes, consistent with the character and development pattern along Walter Street.

In addition, the property is within 500m of the Claremont Activity Centre, a Secondary centre under State Planning Policy 4.2 and is within 200m walking distance to Stirling Highway a major transit route and 800m from Claremont train station.

It is reasonable for the WAPC to consider the proposed subdivision under the higher code of R20, pursuant to section 138 of the Planning Act, on the basis that it is a minor conflict with TPS, given that the proposal is in keeping with the street and other properties having a density code of R25 and thus not have a negative impact on the street. It is also a unique situation that would not be replicated.

On this basis the 2% variation to the average lot size under R20 is also acceptable. It would clearly meet the following criteria under clause 5.1.1 P2 of the R-Codes that allows a 5% variation:

*"...allow land to be developed with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed..."*

#### **CONCLUSION:**

The proposal may be considered a minor deviation from TPS3 and the R-Codes, particularly given the favourable advice from the local government. The proposed lots would be consistent with the development and subdivision pattern of Smith Street and not have a negative impact on the streetscape. It is also a unique situation that would not be replicated in the locality. It is thus recommended that the proposed subdivision be conditionally approved.



## ITEM NO: 9.12

### Subdivision to Create Two Residential Lots in R20 Area – Lot 259 (No. 4) Edison Way Dianella

**COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer, Metropolitan Planning Central
AUTHORISING OFFICER:	Director, Metropolitan Planning Central
AGENDA PART:	Part G
FILE NO:	152771
DATE:	22 January 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve
ATTACHMENT(S):	1. Subdivision Plan 2. Location and Zoning Plan 3. Lot sizes and development potential 4. Street view
REGION SCHEME ZONING:	MRS Urban
LOCAL GOVERNMENT:	City of Stirling
LOCAL SCHEME ZONING:	Residential R20
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Perth Metro Central
RECEIPT DATE:	21 October 2015
PROCESS DAYS:	93
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 259 Edison Way, Dianella

**RECOMMENDATION:**

***That the Statutory Planning Committee resolves to approve the application for subdivision of Lot 259 Edison Way, Dianella as shown on the plan date-stamped 21 October 2015. This decision is valid for three years subject to the following condition(s) and advice:***

**CONDITION(S):**

- 1. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on Lots 1 and 2 at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)***
- 2. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal***

***systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)***

- 3. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)***
- 4. Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)***
- 5. Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)***
- 6. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power).***

**ADVICE:**

- 1. In regard to Condition 1, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.***
- 2. In regard to Conditions 3 and 4, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.***
- 3. In regard to Condition 6, Western Power provides only one underground point of electricity supply per freehold lot.***

**SUMMARY:**

It is proposed to subdivide a residential lot into two 402m<sup>2</sup> lots located side-by-side, each with frontages of 13.31m and 10.05m which comply with required minimum site area and frontage requirements but propose a 10.7% variation to the required average site area.

The proposal does not meet criteria for side-by-side subdivision under the Interim Planning Practice for Metropolitan Central area resolved by the Statutory Planning Committee (SPC) in December 2105 (average site area variation greater than 5%).

Specific circumstances warrant a recommendation for approval, including the existing and possible future development pattern, as detailed in the report.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

**Legislation**  
Section: Planning and Development Act 2005  
Subdivision - Part 10 S 138

**Strategic Plan**  
Objectives: Planning  
Performance Outcomes: Effective Delivery of Integrated Plans  
Strategic Imperatives: Implement State and Regional Planning priorities

**Policy**  
Number and / or Name: Development Control Policy 2.2 - Residential Subdivision  
SPP 3.1 - Residential Design Codes

## **INTRODUCTION:**

The application proposes to subdivide an existing 804m<sup>2</sup> lot into two freehold lots located side-by-side, each with a land area of 402m<sup>2</sup>; one with a 13.31m wide frontage and the other 10.05m (**Attachment 1 - Subdivision Plan**). The subject site is currently occupied by a single house and pool. Existing structures are proposed to be removed.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' with a density code of R20 under the City of Stirling Town Planning Scheme No. 3 (TPS3) (**Attachment 2 - Location and Zoning Plan**).

The locality is characterised by single storey single dwellings, predominantly dating to the 1970-80s interspersed by development of two grouped dwellings most of which are built stratas which may date to the 1970s. The predominant lot size is approximately 700- 800m<sup>2</sup>; the built stratas located on those lots 800m<sup>2</sup> or more. The lot adjoining the subject site to the rear is a recent development of two dwellings on a similar sized lot to the subject site being a redevelopment of an older built strata.

## **CONSULTATION:**

The Water Corporation and Western Power were consulted and recommend approval subject to conditions.

The Department of Parks and Wildlife (DPAW) was consulted as the property is within an endangered fauna buffer but has no comment.

The City of Stirling was consulted and is unable to support the application as it does not comply with the average lot size requirements for R20 and approval *"would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality which would undermine the objectives and provisions of the City of*

*Stirling's Local Planning Scheme No. 3 for lots subject to the same density coding".* Conditions are recommended should the WAPC approve the proposal.

All recommended conditions have been assessed and where considered fair, reasonable and relevant, they should be imposed.

## **COMMENTS:**

Section 138 of the Planning and Development Act (the Planning Act) allows the Western Australian Planning Commission (WAPC) to approve a subdivision that conflicts with the provisions of a local planning scheme in some limited circumstances including where the conflict is of a minor nature. The Residential Design Codes (R-Codes) are read into the City of Stirling TPS3 and provide the relevant development provisions.

Table 1 of the R-Codes require a minimum site area of 350m<sup>2</sup> and an average site area of 450m<sup>2</sup> for single houses in R20 areas. With lot areas of 402m<sup>2</sup>, the proposal complies with the minimum site area but proposes a 10.7% variation to the required average site area.

### **Development Control Policy 2.2 and Residential Design Codes**

Clause 3.2.3 of WAPC Development Control Policy 2.2 (DC 2.2) allows a variation of up to 5% of the average site area where the minimum is achieved if the *"applicant has provided information that demonstrates the variation will have a beneficial outcome for the community, or the WAPC forms the opinion that it will have a beneficial outcome for the community"*. Clause 5.1.1 P2 of the R-Codes allows a similar variation subject to various criteria. However, as the application seeks a variation in excess of 5%, not provided by DC 2.2 or the R-Codes, the proposal is subject to assessment against the Interim Planning Practice.

### **Interim Planning Practice**

The SPC resolved (in December 2014) to permit variations to DC 2.2, clause 3.2.3 for subdivision and survey strata applications in the Metropolitan Planning Central area subject to a number of criteria and to delegate power to approve such applications to nominated officers. The interim practice applies where:

- the proposed lots meet the minimum lot area requirements as prescribed in Table 1 of the R-Codes;
- the proposal is for a corner site, a side by side lot configuration or for land that has dual frontage to dedicated road or right of way;
- the proposal is not for a battle-axe lot configuration;
- the proposed lots are of a regular shape;
- the subdivision site is fully serviced; and
- the proposed lots meet the minimum frontage requirements as prescribed in Table 1 of the R Codes.

In December 2015, the SPC resolved to continue the delegation subject to additional criteria specifying that side by side configurations may be supported where the site is:

- within a walkable distance of a boundary of an activity centre as defined by State Planning Policy 4.2 Activity Centres for Perth and Peel. or

- located within an area where the character of the area has been altered from the original layout as a result of subdivision which occurred under a former higher density code.

Notwithstanding the above, all applications which seek an assessment against the interim practice will require careful consideration in the context of:

- the character of the area, and
- the strategic objectives of the planning framework; and
- the subdivision potential of the locality of the application site.

Where it is determined that there is a risk that the density could be undermined, as a result of exercising this additional discretion, the application will either;

- require a decision of the Statutory Planning Committee; or
- be refused under delegated authority.

#### Criteria for side by side configurations

The subject proposal does not meet the criteria under the interim practice for side-by-side configurations relating to the walkable distance to an Activity Centre. The boundaries of Dianella Plaza, a District Centre is located approximately 1km away and Galleria Morley, a Strategic Metropolitan Centre is about 1.5km away whereas State Planning Policy 4.2 nominates walkable catchments for residential density targets of 400m and 800 m respectively for these centres. The property is however within 200m of Alexander Drive, a major transit route. It is also located opposite a regional recreation facility and open space.

With regard to the second criteria for side-by-side configurations, the character of the area has been altered from the original layout as a result of subdivision in the area but not under a higher density code. The subject land was coded R20, as per current TPS3, under the previous TPS2 which was gazetted 1985 (and first introduced the R-Codes to Stirling).

Nonetheless, there are a considerable number of built strata developments of two dwellings per lot in the locality (approximately 50 out of 300 lots (17%) in the area bound by Alexander Drive, Glover, Light Streets and Wellington Road) on lots of a similar size to the subject lot. These are illustrated in **Attachment 3 - Lot sizes and development potential**. The basis for these developments is unclear but investigations indicate they date back to the 1970s therefore predating TPS2.

One of these built stratas abuts the subject site to the rear. This was recently redeveloped as two new dwellings on the basis of a previous built strata (refer to **Attachment 4 - Street view**).

#### Contextual considerations

The four corner lots on Edison Way, would be eligible for subdivision under the interim practice and this would be in keeping with the development pattern.

**Attachment 3 - Lot sizes and development potential** also shows those lots that would meet the minimum lot area and frontage requirements but not average lot area under Table 1 of the R-Codes. This illustrates the extent to which the subject proposal could be replicated should the proposal be approved and allowed on lots

700m<sup>2</sup> and greater in size (approximately 30% - 90 lots out of the 300 lots). These are located in and near street blocks already occupied by built strata developments.

A proportion of 30% replication may undermine the base density of R20 under TPS3 which is not the intention of the interim practice. The majority of these lots are however closer to 700m<sup>2</sup> in size and would be a substantial variation to the average site area of greater than 20% changing the density to the higher code of R25 (that requires a 350m<sup>2</sup> average and 300m<sup>2</sup> minimum site areas).

The number of lots that are 800-900m<sup>2</sup> with 20m frontages and only include one dwelling are very few - there are about 30 such lots in this locality as shown on **Attachment 3 - Lot sizes and development potential**. It would be equitable to extend the interim practice to these lots in light of the existing built strata developments on similar sized lots and not undermine the base R20 density; on the ground a lot size of 400m<sup>2</sup> would be difficult to distinguish from 450m<sup>2</sup>.

### **CONCLUSION:**

Approval of the subject proposal would be an equitable decision based on:

- There is a significant number and distribution of existing built strata developments in the locality.
- A new development of two dwellings abuts the subject site (at the rear) on a similar sized lot.
- The lot on the corner of Edison Way and Light Street, also abutting the subject site, would meet criteria for subdivision approval under the interim practice.
- The size of the lot at greater than 800m<sup>2</sup> would not undermine the R20 density code under TPS3 should the subdivision be replicated over other similar sized and situated lots in the locality.

In addition, close proximity to a major transit route (200m from Alexander Drive) and regional open space provides advantages to the subdivision.

It is recommended that the application be conditionally approved.



## ITEM NO: 9.13

### Subdivision to Create Two Rural Living Lots – Lot 133 Rodgers Court, Roleystone

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Manager - Metropolitan South East
AUTHORISING OFFICER:	Director - Metropolitan South
AGENDA PART:	C
FILE NO:	150114
DATE:	9 February 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refusal
ATTACHMENT(S):	1. Plan of Subdivision 2. Location Plan 3. Fire Management Plan
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	City of Armadale
LOCAL SCHEME ZONING:	Rural Living 2
LGA RECOMMENDATION:	Approval
REGION DESCRIPTOR:	Perth Metro South East
RECEIPT DATE:	30 May 2014
PROCESS DAYS:	
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 133 Rodgers Court, Roleystone

#### RECOMMENDATION:

***That the Statutory Planning Committee resolves to:***

- 1. refuse the application for subdivision of Lot 133 Rodgers Court, Roleystone as shown on the plan date-stamped 30 May 2014, for the following reasons:***
  - i. The proposed subdivision does not comply with State Planning Policy 3.7 - Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas as it represents the intensification of development in an extreme bushfire prone area (BAL-40 and BAL-FZ), contrary to the precautionary principle in the Guidelines. The Guidelines state that the subdivision of lots where a BAL-40 or BAL-FZ building standard would be required should only be considered if it meets the definition of unavoidable development.***



- ii. The application fails to provide appropriate secondary/emergency access in the event of a bushfire emergency and it has not been demonstrated that acceptable permanent hazard reduction measures can be implemented on the subject land.*

**2. advise the landowner/applicant that:**

- i. The existing State bushfire planning framework, including State Planning Policy 3.7 - Planning in Bushfire Prone Areas and associated Guidelines, recommend the adoption of risk avoidance measures where possible, in order to avoid increased fire risk to life and property through inappropriately located or designed land use, subdivision and development. As such, proposals that will result in the introduction or intensification of development in an area that has an extreme bushfire hazard level will only be supported in exceptional circumstances where it can be demonstrated that permanent hazard reduction measures can be implemented to reduce the hazard to an acceptable level.*
- ii. It is noted that the landowner/applicant has had discussions with the adjoining landowners and the management of the Araluen Botanic Park regarding the construction of an emergency access easement to be used in the event of a bushfire emergency. However, the proposed access solution is not viable, as the maintenance of such an easement cannot be enforced in perpetuity via conditions of this subdivision as they cannot bind a neighbouring property.*

**SUMMARY:**

The application proposes the subdivision of a 4.48 hectare lot in Roleystone to create one lot of 2.02 hectares and a battleaxe lot of 2.48 hectares for rural residential/rural living purposes. The subject land is identified as bushfire prone and subject to extreme bushfire risk. The proposal is not consistent with orderly and proper planning having regard to various site constraints and in the context of the State bushfire planning framework which recommends applying the precautionary principle in regard to subdivision or intensification of land use in areas subject to extreme bushfire risk.

The proposal is submitted to the Statutory Planning Committee for determination as it is one of the first applications in the City of Armadale to be assessed under State Planning Policy 3.7 - Planning in Bushfire Prone Areas.

**LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<i>Planning and Development Act 2005</i>
Section:	Part 10 - Subdivision and development control

<b>Strategic Plan</b>	
Objectives:	Planning

Performance Outcomes: Effective delivery of integrated plans  
Strategic Imperatives: Implement State and regional planning priorities

### **Policy**

Number and/or Name: State Planning Policy 2.5 - Land Use Planning in Rural Areas  
State Planning Policy 3.7 - Planning in Bushfire Prone Areas

## **INTRODUCTION**

The application proposes to subdivide Lot 133 Rodgers Court, Roleystone, comprising an area of 4.48 hectares to create two lots: one lot of 2.02 hectares and one lot of 2.48 hectares (**Attachment 1 - Plan of Subdivision**). The proposed 2.48 hectare lot will obtain access from a battleaxe access leg of approximately 180 metres in length.

The subject land is zoned Rural and abuts land reserved for Parks and Recreation under the Metropolitan Region Scheme. The subject land is zoned Rural Living 2 under the City of Armadale Town Planning Scheme No. 4 (TPS No. 4) (**Attachment 2 - Location Plan/TPS Zoning**).

The land abuts the Araluen Botanic Park along the south-eastern boundary and another rural living lot on the western boundary. The adjoining Lot 102 to the south is predominantly cleared parkland and contains a dwelling. The subject lot is steeply sloping and retains substantial vegetation cover as evident from the aerial photograph and contour mapping overlaid on the plan of subdivision.

## **CONSULTATION**

The City of Armadale (the City) recommends approval subject to conditions.

The Water Corporation and Western Power raised no objection.

The Department of Fire and Emergency Services requires an assessment of the level of bushfire hazard to support the application before it can consider the application further.

## **COMMENTS:**

### **State Planning Framework**

*State Planning Policy No. 2.5 - Land Use Planning in Rural Areas (SPP 2.5) is intended to be applied through State and local government decision making, in conjunction with other applicable State planning policies, when assessing planning proposals in rural areas. Section 5.2 of SPP 2.5 states that the creation of new rural living lots will be considered by exception only “where topography, environmental or servicing constraints do not permit full urban development and where bushfire risk is not extreme and significant biodiversity values are protected.”*

*State Planning Policy 3.7 - Planning in Bushfire Prone Areas* (SPP 3.7) and *Guidelines for Planning in Bushfire Prone Areas* (the Guidelines) were gazetted on 7 December 2015. The Guidelines reference bushfire prone areas as those designated by the Fire and Emergency Services Commissioner and identified on the Map of Bush Fire Prone Areas. The Guidelines maintain the principle that development should not be supported in areas of extreme fire risk unless such risk can be reduced to moderate or low and the requirements of bushfire protection criteria relating to location, siting, access and water are satisfactorily addressed.

### **Local Planning Scheme**

The objective of the Rural Living 2 zone is to provide for rural residential subdivision where proposals achieve a 2 hectare minimum lot size that satisfy the following objectives:

- to provide for a variety of rural living environments based on defined lot sizes, land form and natural environmental characteristics;
- to provide for a range of associated compatible development, consistent with the environmental opportunities and constraints applicable to individual sites; and
- to ensure development is sited, designed and managed in harmony with the natural environment and so as to protect the rural landscape and amenity.

The proposed lot sizes comply with the 2 hectare minimum lot size prescribed for the Rural Living 2 zone.

### **Availability of Water**

The subject land is remote from any reticulated water source. Clause 5B.5 of TPS No. 4 allows the development of rural residential zoned land where the land is remote from reticulated water, subject to compliance with the following criteria:

- the provision of a roof tank with a capacity of at least 90,000 litres, with a minimum catchment area of 250m<sup>2</sup>; or
- the provision or existence of a bore, well spring soak or dam yielding water at a sufficient rate, or with associated storage capacity, to meet the reasonable needs of occupiers of a dwelling.

WAPC practice has been to require the placement of a memorial on the Certificates of Title of the proposed lots to advise any prospective purchasers of the need to provide an adequate supply of potable water. In this instance, additional water resources would be required for fire-fighting purposes as discussed below.

### **Bushfire Protection**

SPP 3.7 and the Guidelines state that bushfire hazards must be considered in planning decisions at all stages of the planning process. The Guidelines state that any new proposals that will lead to land use intensification in bushfire prone areas should, as a minimum, include a bushfire hazard assessment to identify and address issues of concern in accordance with the bushfire protection criteria in the Guidelines.

The subject site is heavily vegetated as evident from the aerial photograph. The site is deemed to be bushfire prone and the associated level of risk is likely to be extreme, given the prevailing vegetation, level of terrain and proximity to regional reserves.

A request was made for further supporting information to be submitted in accordance with the Guidelines prior to the determination of this application. The applicant engaged a bushfire risk consultant (RUIC Fire) to prepare a Fire Management Plan (FMP) incorporating a Bushfire Attack Level (BAL) assessment and mitigation strategies (see **Attachment 3 - Fire Management Plan**). The City assessed the draft FMP and requested the following modifications:

1. *The design of the water tank size is to meet TPS No. 4 requirements.*
2. *A 50mm fitting on the water tank is not suitable for local fire-fighting appliances (75mm fitting required).*
3. *Access for the Emergency Access Way – an easement must be arranged on adjoining lot, (Lot 278 Croyden Road, Roleystone) for the full length of the driveway to Croyden Road, Roleystone and ensure that it meets standard A2.6. This requirement is to be fulfilled by the developer and to be reflected in the FMP responsibilities.*
4. *The Emergency Access Way is to be maintained by the relevant property owner, not the Local Government.*
5. *External fire breaks are to meet the standard of COA's Fire Break Notice and is a developer responsibility to be installed on (proposed) Lot's 800 & 801.*
6. *Vegetation on (proposed) Lots 800 & 801 is to be classified as extreme and not moderate as it is all Class A forest.*
7. *The fuel reduction to be completed by the developer and is to be maintained until proposed Lot 800 is sold. Relevant property owners are then to maintain.*
8. *BAL measurements will need to be recalculated (42m to the south [forest on 10-15 degree slope] and setbacks placed on the map).*
9. *Plan states in different places that the maximum BAL will be 19 and 29. Needs to be corrected as the BAL will most likely be 29.*
10. *"Planning for Bush Fire Protection Guidelines" recommends that battle axes(sic) should be avoided in bushfire hazard areas of moderate and extreme.*

The issues raised by the City have been considered by the proponent and addressed via a revised FMP, however, compliance with the emergency access requirements (Points 3-4) have not been sufficiently demonstrated. The applicant has advised that the owner of the adjoining Lot 278 Croyden Road is amenable to an emergency access easement but is not willing to maintain the easement. It is understood that the landowner then approached the management of the Araluen Botanic Park to secure emergency access rights over the adjoining Araluen parkland.

The proposed access solutions, involving the provision emergency access routes through adjoining property, is not a viable solution as neither the local government nor WAPC can impose or enforce the maintenance of such emergency access over an adjoining property in perpetuity via a condition of subdivision approval. Further, compliance with Points 6 and 10 have not been demonstrated as the revised FMP still shows existing vegetation on site as posing a moderate risk (whereas it is likely to be extreme) and the subdivision is still reliant on access via a battleaxe access leg.

SPP 3.7 and the Guidelines recommend the application of the precautionary principle to avoid fire risk to life and property through inappropriately located or designed land use, subdivision and development. In this regard, proposals that will result in the introduction or intensification of development in an area that has an extreme bushfire hazard level will only be supported in exceptional circumstances where it can be demonstrated that acceptable, permanent hazard reduction measures can be implemented at a subsequent planning stage to reduce the hazard to an acceptable level. In this instance, the FMP fails to demonstrate acceptable permanent hazard reduction measures.

## **CONCLUSION:**

Although the proposal complies with the 2 hectare minimum lot size required for the Rural Living 2 zone and the City is supportive of the application, the proposal will intensify development in an area subject to extreme bushfire risk. The applicant's Fire Management Plan fails to sufficiently demonstrate compliance with the appropriate access standards, particularly given the lack of alternative emergency access and secondary access routes in the event of a bushfire emergency. Having regard to the above, refusal is recommended.